FALKLAND ISLANDS

Rules Of The Supreme Court 1949

(R.S. & O. No. 3 OF 1949)

ARRANGEMENT OF PROVISIONS

Rule

1. Citation

PART I
CIVIL CASES (OTHER THAN MATRIMONIAL)

2. Commencement of proceedings
3. Service of originating process
4. Manner of entering appearance or filing of acknowledgment of service
5. Supreme Court may order amendment of originating process or pleading or that it be struck out
6. Postponement of hearing
7. Writ and originating summon
8. Acknowledgment of service
9. Defence
10. Further pleadings, etc.
11. Reply
12. Judgment in default of defence
13. Setting down for trial
14. Non-attendance of parties
15. Retrial

16. Application for retrial

17. Signing judgment

18. Sale by sheriff

PART II
RECIPROCAL ENFORCEMENT OF JUDGMENTS

19. Interpretation

20. Application

21. The affidavit

22. Title of affidavit and summons

23. Service of summons

24. The order

25. Form of order

26. The Register

27. Form of Register

28. Notice of registration

29. Form of notice

30. Endorsement of service

31. Application to set aside registration

32. Summons to set aside

33. Execution

34. Affidavit of service

35. Form of writ of execution

36. Application for certified copy of judgment

37. Certified copy of judgment

PART III
GENERAL

38. Office hours

39. Action Book

40. Substituted service

41. Extended time for service, etc., when party resident outside Falkland Islands

42. Procedure on trial

43. Evidence of persons leaving Falkland Islands

44. Evidence by affidavit

45. New trial

46. Taxation of costs

47. Exemption from payment of court fees

48. Other practice, etc., of High Court of Justice to apply

Schedule

FALKLAND ISLANDS

Rules Of The Supreme Court 1949

[DATE OF COMMENCEMENT: 23RD APRIL 1949]
(Unless otherwise indicated)

1 Citation

These Rules may be cited as the Rules of the Supreme Court 1949.

PART I
CIVIL CASES (OTHER THAN MATRIMONIAL)

2 Commencement of proceedings

(1) Except in relation to matrimonial proceedings or where provided by any other written law of the Falkland Islands, proceedings in the Supreme Court shall be commenced in accordance with this rule.

(2) An action shall be commenced by writ and any other proceedings shall be commenced by originating summons, unless some written law of the Falkland Islands requires that the proceedings be commenced in some other way. The document commencing the proceedings is for the purpose of these Rules called "originating process".

(3) Proceedings in the Supreme Court shall be commenced when the originating process in original and with a sufficient number of copies in accordance with paragraph (6) are received by the Registrar and the fee prescribed has, subject to rule 53, been paid.

(4) Except as provided in paragraph (7) of this rule, on the commencement of the proceedings the Registrar shall issue a form of acknowledgment of service in respect of each defendant to be served in such form as may be appropriate.

(5) If a person lodging originating process with the Registrar requests that service thereof shall be effected through the court he shall at that time pay such fee as may be prescribed.

(6) In paragraph (3) of this rule, "sufficient number of copies" means three, with in addition, a further copy in respect of every defendant or respondent exceeding one who is required to be served.

(7) Nothing in paragraph (4) applies to-

(a) the proceedings in the Admiralty jurisdiction of the Supreme Court to the extent that such application would in any way be inconsistent with the practice and procedure of the High Court in England in the exercise of its Admiralty jurisdiction; or

(b) matrimonial proceedings.

(8) Where originating process is served by the court, the Registrar shall notify the person who lodged it of the fact, date, time and place of such service.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

3 Service of originating process

(1) Originating process, unless otherwise required by these Rules or by any other written law of the Falkland Islands, may be served in any way that originating process of the equivalent kind may be served under the Rules of the Supreme Court of England.

(2) The plaintiff or other person commencing proceedings shall not be entitled to apply for judgment in default of defence unless it is proved to the satisfaction of the court that the originating process has been served on the party against whom judgment in default is requested. Where the originating process is served other than through the court, the court shall not be so satisfied unless an affidavit of such service in appropriate form and of appropriate content, sworn by the person effecting service, has been filed in the court.

(3) Except as provided by rule 2(7) of these Rules no originating process is validly served on a person if, at the time of such service, he is not provided with a notice of acknowledgment of service issued by the Registrar, and-

(a) a writ is not validly served if a statement of claim is not endorsed upon or annexed to it; and

(b) an originating summons is not validly served if a true copy of an affidavit filed by the plaintiff in support of the summons is not served at the same time.

(4) A plaintiff is not entitled to apply for any judgment or order in default of acknowledgment of service or defence against a defendant where the time for that defendant to file an acknowledgment of service or defence has not expired.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

4 Manner of entering appearance or filing of acknowledgment of service

(1) An acknowledgment of service may be filed-

(a) by delivering it personally to the court office;

(b) by sending it by pre-paid post to the court office; or

(c) by any other means approved by Practice Direction given by the Chief Justice,

but unless it is delivered to the court office during office hours, it shall be deemed to have been entered or filed only when it is actually received in the court office or when it is next open, whichever is the later.

(2) The Registrar shall notify the person who lodged the originating process of the filing of an acknowledgment of service by sending him a copy of it by pre-paid post.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

5 Supreme Court may order amendment of originating process or pleading or that it be struck out

(1) The Supreme Court may-

(a) order that any originating process be struck out on the ground that the proceedings constitute an abuse of the process of the Court; and where it does so, the proceedings are at an end;

(b) order that any pleading be struck out-

(i) on the ground mentioned in subparagraph (a); or

(ii) on the ground that it discloses no reasonable cause of action; or

(iii) on the ground that is frivolous, vexatious or scandalous.

(2) Where the Supreme Court has power under paragraph (1) of this rule to strike out any originating process or pleading, it also has power to order that it be amended, and, where it makes such an order, the relevant party to the proceedings shall comply with it within such time as may be specified in the order. On making an order under this rule or subsequent thereto the Supreme Court may make such consequential orders (including an order as to costs) as it sees fit.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

6 Postponement of hearing

Any person directly affected by any matter before the Supreme Court may at any time before hearing apply on motion to the Supreme Court for the postponement of the hearing thereof and the judge may make such order thereon and as to costs and security as he may deem fit.

7 Writ and originating summons

A writ shall be in the form set out in Form A in the Schedule and an originating summons shall be in the form set out in Form B in the Schedule. The notes to each of the said forms have the same effect as if they appeared in the body of these Rules.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

8 Acknowledgment of service

(1) A person served with originating process shall deliver to the Registrar a duly completed acknowledgment of service within the period of time specified in this paragraph that is to say-

(a) fourteen days, if he is resident in Stanley or within six miles of Christ Church Cathedral, Stanley;

(b) twenty-eight days, if he is resident in the Falkland Islands other than as specified in (a);

(c) such time as may have been specified by the court at the time of giving leave for service outside the jurisdiction, in the case of originating process served outside the jurisdiction,

and, in the case of originating process leave for service of which outside the jurisdiction has been given, the relevant period shall be inserted in the writ by the Registrar before it is served.

(2) For the purposes of paragraph (1) of this rule-

(a) a natural person is resident at the place at which he usually lives at the time he is served and a body corporate is deemed to be resident at its registered office or, if it has none within the Falkland Islands, at its principal place of business within the Falkland Islands;

(b) where a natural person is served within the jurisdiction but does not usually live within the jurisdiction, he shall be deemed to be resident at the place at which he was served.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

9 Defence

(1) Where a person is served with a writ and has indicated in his acknowledgment of service that he intends to defend the action, he shall deliver his defence to the Registrar before the expiration of fourteen days after the time limited by rule 8 for the delivery by him of the acknowledgment of service and shall also at the time he delivers his defence send a copy of it to the person who commenced the proceedings except that if, on application to the court by him, leave has been given to him to deliver his defence within an extended period, he shall within that extended period deliver his defence and send a copy of it to the person who commenced the proceedings.

(2) Paragraph (1) applies in relation to an originating summons with the substitution of "originating summons" for "writ", "proceedings" for "action" and "affidavit in reply" for "defence".

(3) Nothing in this rule precludes extended time limits being agreed between the parties.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

10 Further pleadings, etc.

Where proceedings are commenced by originating summons an affidavit by an appropriate person in support of the summons must be lodged in the court office at the same time as the originating process and a copy of it must be served on each party required to be served with the originating summons at the same time as that is served.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

11 Reply

(1) Any reply by the person commencing the proceedings to any document delivered by a defendant or respondent pursuant to rule 9 shall be delivered to the court office-

(a) subject to (b) and (c) within fourteen days;

(b) within such extended period as the court may have ordered;

(c) within such extended period as the parties may have agreed.

(2) Any document delivered in accordance with paragraph (1) shall be in a form or of a nature appropriate to the type of proceedings, and a copy of it shall be sent to the defendant at the same time as it is delivered to the court office.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

12 Judgment in default of defence

If no defence is delivered and served within the time specified in rule 9 the plaintiff shall be at liberty after filing an affidavit of service, to apply to the judge to sign final judgment and the judge may make such order as to judgment as he may deem just.

13 Setting down for trial

Either party may after delivery of the reply, or after the time provided therefor under rule 11 has elapsed, apply to the Registrar for the case to be set down for hearing and the Registrar shall notify both parties of the date fixed by the judge:

Provided that either party may apply for a postponement thereof subject to such terms as the judge may impose.

14 Non-attendance of parties

(1) Where the plaintiff fails to attend the hearing the defendant shall be entitled to final judgment.

(2) Where the defendant fails to attend, the plaintiff shall on proving his case be entitled to final judgment.

15 Retrial

Where the plaintiff or defendant fails to appear at the hearing he shall be at liberty within fourteen days or such greater period as the court in its discretion may allow of the date thereof to apply that the judgment be set aside and the judge make an order for retrial or otherwise on such terms and conditions as he may deem fit.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

16 Application for retrial

An application for retrial shall be made by petition stating the grounds on which it is based, filed with the Registrar within three weeks after judgment and served forthwith on the other parties to the suit.

17 Signing judgment

The successful party in an action shall be entitled to sign judgment and issue execution six days after the trial unless application shall have been made for a retrial, or stay of execution.

18 Sale by sheriff

(1) The sheriff shall, when he cannot effect a sale of any property seized by him without a sacrifice of the reasonable value thereof, apply to the judge for directions and for an order for delay and for enlarging the time for returning the writ.

(2) The sheriff shall cause a notice giving the time, place and particulars of sale of goods seized under execution to be fixed on the public notice board at Stanley and at such other places as he may decide.

PART II
RECIPROCAL ENFORCEMENT OF JUDGMENTS

19 Interpretation

In this Part the expression "Ordinance" means either the Reciprocal Enforcement of Judgments Ordinance or the Foreign Judgments (Reciprocal Enforcement) Ordinance as the circumstances require. The definitions contained in section 2 of each of the respective Ordinances shall apply to this Part of these Rules in respect of the enforcement of judgments under each such Ordinance.

20 Application

An application under either Ordinance for leave to have a judgment obtained in a superior court in any jurisdiction to which the Ordinance applies registered in the Supreme Court shall be made ex parte or by summons to the Supreme Court. If the application is made ex parte the judge may direct a summons to be issued.

21 The affidavit

The application shall be supported by an affidavit of the facts exhibiting the judgment or a verified or certified or otherwise duly authenticated copy thereof and stating that to the best of the information and belief of the deponent the judgment creditor is entitled to enforce the judgment and the judgment does not fall within any of the cases in which under the Ordinance a judgment cannot properly be ordered to be registered. The affidavit must also, so far as the deponent can, give the full name, title, trade or business and usual or last known place of abode or business of the judgment creditor and judgment debtor respectively.

22 Title of affidavit and summons

The affidavit and the summons (if any) shall be intituled "In the Matter of the Reciprocal Enforcement of Judgments Ordinance [or In the Matter of the Foreign Judgments (Reciprocal Enforcement) Ordinance], and in the Matter of a Judgment of the . . . . . [describing the court] obtained in . . . . . [describing the cause or matter] and dated the . . . . . day of . . . . . 19 . . . . ".

23 Service of summons

The summons (if any) for leave to register shall be an originating summons and (unless otherwise ordered by the judge) shall be served in the same manner as a writ of summons is required to be served. The judgment debtor shall not be required to enter any appearance thereto.

24 The order

Any order giving leave to register shall be drawn up by or on behalf of the judgment creditor and when the order is made on a summons the order shall be served on the judgment debtor, but where the order is made on an ex parte application no service of the order on the judgment debtor shall be required.

25 Form of order

The order giving leave to register the judgment shall state the time within which the judgment debtor is to be entitled to apply to set aside the registration. Such time where the judgment debtor is resident or is ordinarily resident in the Falkland Islands shall ordinarily be sixty days, and when the judgment debtor is or is ordinarily resident out of the Falkland Islands shall depend on the distance from the Falkland Islands of the place where the judgment debtor resides and the postal facilities between the Falkland Islands and that place, and shall ordinarily be the same time as is limited for entering appearance after service out of the jurisdiction of a writ of summons or notice thereof.

26 The Registers

A register of judgments ordered to be registered under each Ordinance shall be kept by the Registrar. The judgment shall be registered in the appropriate register in accordance with the order giving leave to register it.

27 Form of Registers

There shall be entered in the register the date of the order for registration and of the registration, the name, title, trade or business and usual or last known place of abode or business of the judgment debtor and judgment creditor and the amount for which the judgment is signed and any special directions in the order for registration as to such registration and/or execution thereon and the particulars of any execution issued thereon.

28 Notice of registration

Notice in writing of the registration of the judgment must be served on the judgment debtor within a reasonable time after such registration. Such notice shall (in the absence of an order by

the judge as to the mode of service thereof) be served on the judgment debtor by personal service (with power to order substituted service or service out of the jurisdiction or both) as in the case of a writ of summons, but the judge may at any stage of the proceedings authorize or direct some other mode of service and if he does so the service shall be effected in accordance with such authority or direction.

29 Form of notice

The notice of registration shall contain full particulars of the judgment registered and of the order for such registration and shall state the name and address of the judgment creditor on whom and at which service of any summons issued by the judgment debtor may be served. The notice shall state that the defendant is entitled, if he has grounds for doing so, to apply to set aside the registration and shall also state the number of days for applying to set aside the registration limited by the order giving leave to register.

30 Endorsement of service

The party serving the notice shall, within three days at most after such service, endorse on the notice or a copy or duplicate thereof the day of the month and week of the service thereof, otherwise the judgment creditor shall not be at liberty to issue execution on the judgment; and every affidavit of service of such notice shall mention the day on which such endorsement was made. This rule shall apply to substituted as well as other service. The three days limited by this rule may under special circumstances be extended by order of the judge.

31 Application to set aside registration

The judgment debtor may at any time, within the time limited by the order giving leave to register, after service on him of the notice of the registration of the judgment apply by summons to the Supreme Court to set aside the registration or to suspend execution on the judgment, and the judge on such application, if satisfied that the judgment comes within one of the cases in which under section 3(2) of the Reciprocal Enforcement of Judgments Ordinance no judgment can be ordered to be registered or that it is not just or convenient that the judgment should be enforced in the Falkland Islands or for other sufficient reason, may order that the registration be set aside or execution on the judgment suspended either unconditionally or on such terms as he thinks fit and either altogether or until such time as he shall direct:

Provided that the judge may allow the application to be made at any time after the expiration of the time herein mentioned.

32 Summons to set aside

The summons referred to in rule 31 shall be an ordinary summons intituled in the same manner as the affidavit referred to in rule 30.

33 Execution

No execution shall issue on a judgment registered under either Ordinance until after the expiration of the time limited by the order giving leave to register, and after service on the judgment debtor of notice of the registration thereof:

Provided that the judge may at any time order that execution shall be suspended for a longer time.

34 Affidavit of service

Any party desirous of issuing execution on a judgment registered under either Ordinance must produce to the proper officer an affidavit of the service of the notice of registration.

35 Form of writ of execution

A writ of execution on a judgment registered under either Ordinance may be thus varied: instead of "which said sum of money and interest were lately before us in the Supreme Court" &c., insert "which said sum of money and interest were lately in [describing the court in which the judgment was obtained]" &c., "and which judgment has been duly registered in our Supreme Court pursuant to the Reciprocal Enforcement of Judgments Ordinance [or the Foreign Judgments (Reciprocal Enforcement) Ordinance]".

36 Application for certified copy of judgment

Any application under section 4 of the Reciprocal Enforcement of Judgments Ordinance or section 12 of the Foreign Judgments (Reciprocal Enforcement) Ordinance for a certified copy of a judgment obtained in the Supreme Court shall be made ex parte to the Registrar on an affidavit made by the judgment creditor giving the particulars of the judgment and showing that the judgment debtor is resident in some jurisdiction [state which] outside the Falkland Islands to which the Ordinance extends and stating to the best of his information and belief the title, trade, business or occupation of the judgment creditor and judgment debtor respectively and their respective usual or last known places of abode or business.

37 Certified copy of judgment

The certified copy of the judgment shall be an office copy and shall be sealed with the seal of the Supreme Court and shall be certified by the Registrar as follows:

> "I certify that the above copy of the judgment is a true copy of a judgment obtained in the Supreme Court of the Falkland Islands and this copy is issued in accordance with section 4 of the Reciprocal Enforcement of Judgments Ordinance [or section 12 of the Foreign Judgments (Reciprocal Enforcement) Ordinance].
>
> *(Signed)* . . . . . .
>
> Registrar of the Supreme Court
> of the Falkland Islands".

PART III
GENERAL

38 Office hours

The offices of the Supreme Court shall be open during such hours as the offices of the Government generally are open.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

39 Action Book

The Registrar shall enter in the Action Book all writs, petitions and other proceedings in all actions and other matters commenced or referred to the Supreme Court.

40 Substituted service

Any plaintiff or petitioner who is unable to serve or cause to be served a writ or petition upon any defendant or co-respondent personally may apply to the judge for an order for substituted or other service and shall file in support of the application an affidavit setting forth the grounds on which it is made.

41 Extended time for service, etc., when party resident outside the Falkland Islands

The judge shall, where the party to any proceedings is resident or is ordinarily resident out of the Falkland Islands, state the time within which such party shall be served and file proceedings, as the case may be, regard being had to the distance from the Falkland Islands of the place where the party is or resides and the postal facilities between the Falkland Islands and that place.

42 Procedure on trial

The plaintiff shall state his case to the court and call his witnesses who shall be subject to cross-examination and re-examination, then the defendant shall state his case and call his witnesses, who shall be subject as aforesaid. The plaintiff shall have the final address except when the defendant does not call any witnesses, other than give evidence himself when he shall have the final address after the plaintiff.

43 Evidence of persons leaving the Falkland Islands

When it is probable that a person who would be a witness in a case pending in the Supreme Court may leave the Falkland Islands before the case can be brought to trial the party requiring him may apply to the Registrar to have the evidence of that person taken before the judge and shall forthwith give notice of such application to the opposite party, and the Registrar shall notify both parties of the day fixed by the judge to hear such evidence. No such evidence shall be used unless the opposite party has had an opportunity of cross-examining the witness.

44 Evidence by affidavit

Evidence may be given by affidavit in the case of witnesses absent from the Falkland Islands but the judge may on the application of any party or at his own discretion direct that any such witness shall be examined by commission.

45 New trial

(1) An application for a new trial may be made on the day of the trial if both parties are present or within twelve days from the day of the trial.

(2) Except where the application is made on the day of the trial the applicant shall, not less than six clear days before the hearing of the application, file with the Registrar and give to the opposite party notice in writing of the application stating the grounds thereof.

(3) The notice shall not operate as a stay of proceedings unless the court otherwise orders.

(4) On receipt of the notice the Registrar shall unless otherwise ordered, retain any money in court until the application has been heard.

(5) An order for a new trial shall be in Form D in the Schedule.

46 Taxation of costs

The Registrar shall fix a date for the taxation of costs and shall tax the same but no costs shall be taxed unless the bill of costs has been delivered to the opposite party more than forty-eight hours before the date fixed for taxation.

47 Exemption from payment of court fees

(1) The Crown and any person legally aided in respect of the proceedings in question are not liable to pay any court fees otherwise payable, but for the purposes of any order as to costs shall be deemed to have paid those fees.

(2) The court may make such order as it sees fit as to the recovery from any other party to the proceedings in question of court fees exempted under paragraph (1) of this rule.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

48 Other practice, etc., of High Court of Justice to apply

In all other matters of practice and procedure not repugnant to or provided for in these rules, the practice and procedure of the High Court of Justice in England shall, as far as possible, be adopted.

SCHEDULE

FORM A
WRITT OF SUMMONS (Rule 5)

IN THE SUPREME COURT OF
THE FALKLAND ISLANDS
(CIVIL SIDE) No.

BETWEEN

PLAINTIFF[1]

AND

DEFENDANT[2]

TO THE DEFENDANT[S][2]

of

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff[s][1] in respect of the claim set out on the back or in the Statement of Claim annexed to this writ.

WITHIN the appropriate period after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Offices at the Town Hall Ross Road Stanley the accompanying ACKNOWLEDGMENT OF SERVICE in which you must state whether or not you intend to contest the claim. If you fail

(1) To satisfy the claim, or

(2) To return the Acknowledgment of Service,

(3) To deliver to the Court Offices your defence to the claim, before the end of the 14 days after the period within which you are required to return the Acknowledgement of Service, or within such greater period as the Court on your application may allow,

the Plaintiff1 can without notice to you, proceed with the action and ask the court to enter judgement against you.

The period within which you must return the Acknowledgment of Service is –

(a) fourteen days if you are resident in Stanley or within six miles Christchurch Cathedral Stanley

(b) twenty-eight days if you are resident anywhere else in the Falkland Islands;

(c) if you were served within the Falkland Islands, but usually live overseas, the same period (under (a) or (b) above) as if you were resident at the place in the Falkland Islands at which you were served with this writ;

(d) if you were served outside the Falkland Islands by special permission of the court [-] days (this blank will have been filled in by the Court Office before this writ was served on you, where this applied).

ISSUED from the Office of the Supreme Court this day of 19

Note – This writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 calendar months) beginning with that date unless renewed by order of the Court

IMPORTANT

You should pay careful attention to the Direction for Acknowledgement of Service on the accompanying form.

(On reverse of above)

STATEMENT OF CLAIM[3]

Where words appear in square brackets, above or below delete if unapplicable

(A sufficient Statement of Claim must be endorsed or annexed to the writ and the statement of claim must be signed by the Legal Practitioners who prepared it or by the Plaintiff, where he acts in person. If the Statement of claim exceeds the space available on this sheet it may be continued on as many attached sheets as necessary)

THIS WRIT was issued by [Legal Practitioners] of
[Agents for of] [Legal Practitioners for] the Plaintiff ([1])
who resides at
[and *if the Plaintiff(s) does not (do not) reside within the Falkland Islands* whose address in the Falklands Islands for service is [5]]

Notes to form
(these notes need not appear in the writ as issued)

1. Words in italics on this Form and the superscripts in the Form (and these notes) need not appear in the writ as issued.

2. (Superscript[1]). Amend in accordance with the number of plaintiffs who sue.

3. (Superscript[2]). Amend in accordance with the number of defendants who are sued.

4. A copy of a writ which does not bear the official embossed or rubberstamp seal of the Supreme Court may not be served.

5. (Superscript[3]). The Statement of Claim should be set out in sufficient detail the basis of the Plaintiff's claim, but should not set out except so fat as is necessary to give the basis of the Plaintiff's claim the evidence whereby it is intended to prove it. It must be endorsed upon or annexed to the writ.

6. (Superscript[4]). The address given must be an address within the Falkland Islands. A Post Office box number is not acceptable.

7 (Superscript[5]). A Post Office box number is not acceptable.

8. Service of the writ is ineffective if the form of Acknowledgement of Service is not, at the same time, given to the person served.

9. These notes and the notes appearing in the body of the Form have the same effect as if they appeared in the body of the Rules.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

FORM B

ORIGINATING OF SUMMONS (Rule 5)

IN THE SUPREME COURT OF
THE FALKLAND ISLANDS
(CIVIL SIDE)

BETWEEN

PLAINTIFF[1]

AND

DEFENDANT[2]

To

of

YOU ARE REQUIRED within the appropriate period after service of this summons on you, counting the day of service to return the accompanying Acknowledgment of Service to the Court Offices Town Hall Ross Road Stanley.

BY THIS SUMMONS, which is issued on the application of plaintiff[1] the plaintiff[1] [claims[1] against the defendant[2]] [*or* seeks[1] the determination of the following questions] *(or as may be)*

IF YOU do not acknowledge service the Plaintiff[1] may without notice to you apply to the Court for such judgement or order as the Court thinks just or expedient.

The period within which you must return the Acknowledgement of Service is –

(a) fourteen days if you are a resident in Stanley or within six miles of Christchurch Cathedral, Stanley;

(b) twenty-eight days if you are a resident anywhere else in the Falkland Islands;

(c) if you were served within the Falkland Islands, but usually live overseas, the same period (under (a) or (b) above) as if you were resident at the place in the Falkland Islands at which you were served with this Originating Summons;

(d) if you were served outside the Falkland Islands by special permission of the court [ ] days (this blank will have been filled in by the Court Office before this Originating Summons was served on you, where this applies).

Dated this day of 19

Service of this Summons must be accompanied by a true copy of the Affidavit filed by the Plaintiff in support of the Summons. This Summons may not be served later than 4 calendar months (*or, if leave is required to effect service outside the Falkland Islands, 6 months*) beginning with the above date unless renewed by order of the Court

This Summons was taken out by

[Legal Practitioner]

[on behalf of the Plaintiff

whose address is [3 5]] [Legal Practitioner Agent for

of [5] Legal Practitioner for the Plaintiff[1] whose address is [3 5]] [This

Summons was taken out by the Plaintiff[1] whose address is [5]

(*and if the plaintiff does not reside within the Falkland Islands*) and whose address for service is [5])

IMPORTANT

You should pay careful attention to the Direction for Acknowledgment of Service on the accompanying form.

Notes to form
(these notes need not appear on the Summons as issued)

1. Words in italics on this Form and the superscripts in the Form (and these notes) need not appear in the Summons as issued.

2. (Superscript[1]) Amend in accordance with the number of plaintiffs.

3. (Superscript[2]) Amend in accordance with the number of defendants.

4. (Superscript[3]) The appropriate alternative should appear.

5. (Superscript[4]) This address must be within the Falkland Islands.

6. The service of the Summons is not effective unless the form of Acknowledgment of Service is given to the person served at the same time.

7. (Superscript[5]) A Post Office box address is not sufficient.

8. Service of the Summons must be accompanied by a copy of the Affidavit filed in support.

9. A copy of a writ which does not bear the Official embossed or rubberstamped seal of the Court may not be served.

10. These notes and notes appearing in the body of the Form have the same effect as if they appeared in the body of the Rules.

[S.R. & O. 15/92/w.e.f. 2/11/92.]

Form C

…

[S.R. & O. 15/92/w.e.f. 2/11/92.]

Form D

Order for New Trial
[Title]

On the application of the

IT IS ORDERED that upon

[*Here set out the terms and conditions on which the order is made*]

the Judgment in this Action, and all subsequent proceedings thereon be set aside and a New Trial had between the parties on the day of 20 at the hour of in the noon.

Dated this day of 20

……
Registrar.

[Revision w.e.f. 31/7/17.]