

CAYMAN ISLANDS



Grand Court Act

(2015 Revision)

**PD 2 OF 2024 - EXPLANATORY
MEMORANDUM - USE OF THE HONG
KONG WHITE BOOK AS AN AID TO THE
INTERPRETATION AND APPLICATION OF
THE GRAND COURT RULES**

(SL 5 of 2024)

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GRAND COURT PRACTICE DIRECTION No 2 OF 2024

EXPLANATORY MEMORANDUM – USE OF THE HONG KONG WHITE BOOK AS AN AID TO THE INTERPRETATION AND APPLICATION OF THE GRAND COURT RULES

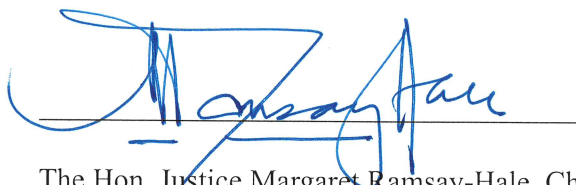
1. The Grand Court Rules (“GCR”) were first enacted on 1 May 1995. They are modelled on the English Rules of the Supreme Court (“RSC”) as they existed in 1995.
2. Paragraph 1(4) of the Explanatory Memorandum to the GCR dated 1 November 2009 states:

“The Rules follow the layout of the Rules of the Supreme Court and are designed so that the notes contained in the Supreme Court Practice 1999 can be used as an aid to the interpretation and application of the Rules where they are the same or similar to the Rules of the Supreme Court, as they existed prior to the enactment of the Civil Procedure Rules 1998.”

3. The GCR do not precisely reproduce the RSC. There are material differences between the terms of the GCR and of the RSC which reflect differences in the relevant legislation in the Cayman Islands and in England, and/or differences in local circumstances and practices. Some rules or parts of the GCR are bespoke and have no counterpart in the RSC.
4. Where the Grand Court needs to consider the interpretation and/or application of a GCR rule it will consider binding or authoritative case-law in the Cayman Islands which considers the relevant GCR rule.
5. It is not uncommon for there to be no binding or authoritative Cayman Islands case-law that considers a GCR rule. If so, then the Grand Court will usually consider (a) whether the terms of the GCR rule are substantially the same as the corresponding RSC rule and (b) whether there are (or were) material differences in relevant legislation, and/or local circumstances and practices, with respect to the GCR rule and the corresponding RSC rule.
6. If (a) the terms of the GCR rule are substantially the same as the corresponding RSC rule and (b) there are no material differences in relevant legislation, or local circumstances and practices, with respect to the GCR rule and the corresponding RSC rule, then the Grand Court may be guided by English case-law that considers the corresponding RSC rule. The English case-law is not binding on the Grand Court but it is persuasive.
7. When considering relevant English case-law, reference will often be made to the editorial notes in the *Supreme Court Practice 1999* (“**White Book 1999**”) or, sometimes, in earlier editions.

8. The approach of the Grand Court, as outlined above, is substantially the same as that of courts in a number of other jurisdictions that continue to use rules of civil procedure modelled on the RSC, such as the Rules of the High Court in Hong Kong (“**RHC**”).
9. Since the repeal of the RSC and their replacement in England by the CPR, difficulties have occasionally arisen in proceedings before the Grand Court regarding the extent to which judgments of the English Courts interpreting the CPR are an aid to the interpretation of the GCR.
10. Parties and practitioners before the Grand Court are therefore encouraged to consider reference to the editorial notes in *Hong Kong Civil Procedure* (“**Hong Kong White Book**”), which has been published annually since 2000. This is because the Hong Kong White Book includes the editorial notes from the White Book 1999, supplemented with notes on the interpretation of the RHC in Hong Kong since 1999 in light of judgments of the courts in Hong Kong interpreting the RHC and judgments of the English courts interpreting the CPR.
11. Accordingly, paragraph 1(4) of the Explanatory Memorandum dated 1 November 2009 is hereby amended as follows:

“The Rules follow the layout of the Rules of the Supreme Court and are designed so that the notes contained in the Supreme Court Practice 1999, or where appropriate earlier editions, can be used as an aid to the interpretation and application of the Rules where they are the same or similar to the Rules of the Supreme Court, as they existed prior to the enactment of the Civil Procedure Rules 1998. The notes contained in the current edition of Hong Kong Civil Procedure, or where appropriate earlier editions, may also be used as an aid to the interpretation and application of the Rules where they are the same or similar to the Rules of the High Court in Hong Kong.”



The Hon. Justice Margaret Ramsay-Hale, Chief Justice
4 March 2024