

STATES OF JERSEY



DRAFT PETTY DEBTS COURT (MISCELLANEOUS AMENDMENTS) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 12th October 2017
by the Chief Minister**

STATES GREFFE



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REPORT

A. *Background – Royal Court Rules Review Group*

In 2014, the Royal Court Rules Review Group, under the chairmanship of the (then) Deputy Bailiff, was set up to conduct a technical review of the Rules of the Royal Court. The purpose of the review, which was separate from the Chief Minister's *Access to Justice Review*, was to examine what changes might be made to improve access to justice and reduce the costs and risks of litigation. Members of the Public and the legal profession were invited to submit suggestions as to areas, issues or improvements which might be considered in the review.

The Group later published a number of recommendations for change as a further consultative document, and extensive amendments to the Royal Court Rules 2004 were approved by the Superior Number of the Royal Court in March 2017.

Also included in the consultative document was a recommendation relating to the jurisdiction of the Petty Debts Court. It was noted that at present, the Petty Debts Court generally hears claims below £10,000. This limit was set in 2000 and came into force on 1st June 2004. The Group consulted on whether this limit should be increased. A significant majority felt that the current limit should be increased. The ranges suggested were between £15,000 and £50,000 with a majority suggesting £20,000. The final recommendation of the Group was expressed in these terms –

“Recommendation

- 1. In reaching its recommendation, the Group has reminded itself that its focus is on how disputes may be adjudicated in a manner, which is both proportionate to what is at stake, and is cost effective. The Group considers that simply to increase limits to £15,000 or £20,000 would achieve no more than to restore the Petty Debts Court jurisdiction to the equivalent level to the current limit when it was fixed in 2000 (although not brought into force until 2004). Such a change therefore only updates the jurisdiction to keep pace with inflation.*
- 2. The Group has therefore concluded that more significant change is required to deal with disputes of a level that quickly become uneconomic when conducted before the Royal Court. Such disputes are also more likely to be disputes affecting island residents such as less severe injuries from road traffic accidents, incidents in the work place or relating to negligent medical treatment. They might also cover neighbour disputes, negligent advice from a lawyer or smaller commercial disagreements in particular between business partners. All*

of these types of claim require early resolution, whether by a court or by a settlement facilitated in some manner. Generally they are not of a magnitude that required the formality of the Royal Court.

Although the Group does not possess statistical evidence of the value of claims heard by the Royal Court, the combined experience of the Group means that it is unanimous in its view that a change needs to occur to deal with these types of claims.

3. *The Group's conclusions lead to a recommendation to increase the jurisdiction of the Petty Debts Court to £30,000 and, after two years, based on an analysis of the effect of this increase on claims made in the Petty Debts Court and the Royal Court including types and values of claim, to evaluate whether the jurisdiction of the Petty Debts Court should increase further to £50,000.*
4. *This proposal will require the States of Jersey to pass Regulations to increase the jurisdiction limits of the Petty Debts Court. ..."*

The Group went on to say that it considered in principle that the procedures of the Petty Debts Court should be simplified, rather than follow the Royal Court Rules, on the assumption that most litigants in the Petty Debts Court will represent themselves. The Petty Debts Court, having regard to approaches taken in small claims courts in other jurisdictions, including England and Wales, intends to develop appropriate changes. Any such changes require approval by the Superior Number of the Royal Court.

It was also considered that the description "Petty Debts" had become something of a misnomer in the 21st Century, given the range and value of matters that the Court would consider if the recommendations were accepted. The Group therefore invited suggestions on a new name for the Petty Debts Court to reflect the changes proposed. The Group noted that any name change would require primary legislation to be approved by the States. This is a matter which is currently being considered by the Legislation Advisory Panel.

B. The draft Regulations

The purpose of these draft Regulations is to implement the above recommendation of the Royal Court Rules Review Group relating to the proposed increase in the jurisdiction of the Petty Debts Court.

The States are empowered by Article 1(4) of the Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 2000 ("the **Law of 2000**") to make Regulations to amend the monetary amounts in respect of which the Court has jurisdiction. In other words, the Law of 2000, along with other relevant legislation, is able to be amended without the need for an amending Law to be sanctioned by Her Majesty in Council.

The draft Regulations therefore merely substitute the present references in the legislation to £10,000 with references to £30,000.

It will be noted that there is a reference in Article 1(2) of the Law of 2000 to £15,000, which will become a reference to £45,000. Article 1(2) provides as follows –

"The Petty Debts Court shall have jurisdiction in respect of any proceedings which may be brought in the Royal Court to pronounce the cancellation (résolution) of a contract (other than a contrat passé devant Justice) of lease (location) of an immovable or any interest in an immovable if the rent payable in respect of the immovable assessed annually at the time of the institution of the proceedings does not exceed £15,000."

The reference to £15,000 is not a reference to an amount claimed in the proceedings for cancellation of the lease, but to the amount of the annual rental payable under the relevant lease. The increase from £15,000 to £45,000 represents an increase which is proportionate to the increase in the Court's monetary jurisdiction from £10,000 to £30,000.

The proposed commencement date of 15th January 2018 is to allow time for any necessary rule changes and practice directions to be introduced.

Collective responsibility under Standing Order 21(3A)

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers, and the Assistant Ministers to the Chief Minister, are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

Financial and manpower implications

The adoption of these draft Regulations will require the appointment of one additional part-time relief magistrate to conduct mediations or trials of civil disputes, as it is envisaged that the increase in jurisdiction will lead to additional and more complex claims than occur at present. This cost will be met out of the current budget of the Magistrate's Court for the period of the present Medium Term Financial Plan, including the stamp duty payable for disputes falling within the increase in jurisdiction.

Explanatory Note

These Regulations amend the Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 2000 (the “2000 Law”) and the Loi (1867) sur la Cour pour le recouvrement de menues dettes (“Loi (1867)”) to increase the maximum amount for which the Petty Debts Court would have jurisdiction in respect of certain matters.

Regulation 1 amends the 2000 Law to increase from £10,000 to £30,000 the maximum amount (net of any interest claimed) for which the Petty Debts Court would have jurisdiction in respect of a civil matter or cause.

Regulation 1 also amends the 2000 Law to increase from £15,000 to £45,000 the maximum amount for which the Petty Debts Court would have jurisdiction in respect of a claim for the cancellation of a contract of lease of an immovable property or any interest in an immovable assessed annually at the time of the institution of the proceedings (*Regulation 1*).

Regulation 2 amends the Loi (1867) to increase from £10,000 to £30,000 the maximum amount that may be claimed in the Petty Debts Court by an owner of a house, building, or lands, in respect of the movable effects of a lessee situate on or removed from the premises which the lessee occupies, to be applied to the payment of the rent due and as guarantee for accruing rent.

Regulation 2 also amends the Loi (1867) to increase from £10,000 to £30,000 the maximum amount that may be claimed in the Petty Debts Court against the property of a debtor in in case of non-payment by the debtor of bills payable to bearer, bills of exchange or other instruments payable on presentation.

Regulation 3 sets out the title of these Regulations and provides that they shall come into force on 15th January 2018.



Jersey

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Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Article 1(4) of the Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 2000¹, have made the following Regulations –

1 Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 2000 amended

In Article 1 of the Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 2000² –

- (a) in paragraph (1), for the monetary amount “£10,000” there shall be substituted the monetary amount “£30,000”;
- (b) in paragraph (2), for the monetary amount “£15,000” there shall be substituted the monetary amount “£45,000”.

2 Loi (1867) sur la Cour pour le recouvrement de menues dettes amended

In Articles 1 and 5 of the Loi (1867) sur la Cour pour le recouvrement de menues dettes, for the monetary amount “£10,000” there shall be substituted the monetary amount “£30,000”.

3 Citation and commencement

These Regulations may be cited as the Petty Debts Court (Miscellaneous Amendments) (Jersey) Regulations 201- and shall come into force on 15th January 2018.

¹ *chapter 07.615*
² *chapter 07.615*