

**VIRGIN ISLANDS**

**EASTERN CARIBBEAN SUPREME COURT CIVIL PROCEDURE  
RULES (APPLICATION TO THE VIRGIN ISLANDS)  
(AMENDMENT) ORDER, 2009**

**ARRANGEMENT OF SECTIONS**

*Section*

1. Citation.
2. Interpretation.
3. Amendment of the principal Order.
4. Commencement.

**VIRGIN ISLANDS**

**STATUTORY INSTRUMENT 2009 NO. 12**

**VIRGIN ISLANDS (COURTS) ORDER 1967  
(U.K.S.I. 1967 NO. 231)**

**Eastern Caribbean Supreme Court Civil Procedure Rules  
(Application to the Virgin Islands) (Amendment)  
Order, 2009**

[Gazetted 15<sup>th</sup> May, 2009]

The Chief Justice and two other Judges of the Eastern Caribbean Supreme Court in exercise of the power conferred on them by section 6(3) of the Virgin Islands (Courts) Order 1967, and all other powers thereunto enabling them hereby make the following Order:

Citation.                   **1.**     This Order may be cited as the Eastern Caribbean Supreme Court Civil Procedure Rules (Application to the Virgin Islands) (Amendment) Order, 2009.

Interpretation.  
S.I. 2001  
No. 38                       **2.**     In this Order, “the principal Order” means the Eastern Caribbean Supreme Court Civil Procedure Rules (Application to the Virgin Islands) Order, 2001.

Amendment of  
the principal  
Order.                       **3.**     The principal Order is amended

(a) in section 2 by inserting after the words “Virgin Islands” at the end thereof, the words “with the following modification, that is to say, the insertion after Part 69, a new Part as set out in the Schedule hereto”;

(b) by inserting the following Schedule:

**“SCHEDULE  
PART 69A**

**COMMERCIAL CLAIMS**

**Contents of this Part**

Scope of this Part and interpretation                   Rule 69A.1

Commercial list	Rule 69A.2
Application of the Civil Procedure Rules	Rule 69A.3
Proceedings in the commercial list	Rule 69A.4
Statement of value	Rule 69A.5
Defence	Rule 69A.6
Disclosure – ship’s papers	Rule 69A.7
Judgments and orders	Rule 69A.8

**Scope of this Part and interpretation**

69A.1 (1) This Part applies to claims in the Commercial Division of the Supreme Court sitting in the jurisdiction of the Virgin Islands.

(2) Subject to paragraph (3), in this Part and its practice direction, “commercial claim” means any claim or application arising out of the transaction of trade and commerce and includes any claim relating to –

- (a) the law of business contracts and companies;
- (b) partnerships;
- (c) the law of insolvency;
- (d) the law of trusts;
- (e) the carriage of goods by sea, air or pipeline;
- (f) the exploitation of oil and gas reserves;
- (g) the insurance and re-insurance;
- (h) banking and financial services;
- (i) collective investment schemes,
- (j) the operation of markets and exchanges;
- (k) mercantile agency and usages;

- (1) arbitration;
- (3) In order for a claim to qualify as a commercial claim, the claim or value of the subject matter to which the claim relates must be at least \$500,000.
- (4) Notwithstanding paragraphs (2) and (3), the commercial division judge may include in the commercial list a claim that has not satisfied the monetary value under paragraph (3), if he considers the claim to be of a commercial nature and warrants being placed on the commercial list.

### **Commercial list**

- 69A.2 (1) The commercial list is a list for claims commenced or proceeding in the Commercial Division.
- (2) A judge assigned to the Commercial Division shall be in charge of the commercial list.

### **Application of the Civil Procedure Rules**

- 69A.3 These Rules and their practice directions apply to claims in the commercial list unless this Part or a practice direction provides otherwise.

### **Proceedings in the commercial list**

- 69A.4 (1) A commercial claim may be placed on the commercial list at the time it is filed or pursuant to paragraph (4) at a subsequent time.
- (2) The legal practitioner for the claimant or applicant filing a claim must file therewith a certificate to the effect that the claim is appropriate to be treated as a commercial claim within the meaning of rule 69A.1 (2) and (3) and setting out such facts relating to the claim as shall demonstrate this.
- (3) The commercial division judge may order a claim to be transferred to any other list on the grounds that he is not satisfied that the claim is a commercial claim.

(4) At any time before the first case management conference, a party may apply to the commercial division judge to have a matter placed on the commercial list.

(5) An application under paragraph (4) must be supported by an affidavit.

### **Statement of value**

69A.5 A statement of value of the claim or of the subject matter to which the claim relates must be included in the claim form.

### **Defence**

69A.6 Part 10 (defence) applies to the claims in the commercial list with the modification that the time referred to in rule 10.9 (1) (a) is varied to 21 days after the service of the defence.

### **Disclosure – ship’s papers**

69A.7 (1) If, in proceedings relating to a marine insurance policy, the underwriters apply for specific disclosure under rule 28.5, the commercial division judge may –

(a) order a party to produce all the ship’s papers; and

(b) require that party to use his best endeavours to obtain and disclose documents which are not or have not been in his control.

(2) An order under this rule may be made at any stage of the proceedings and on such terms, if any, as to staying the proceedings or otherwise, as the judge thinks fit.

### **Judgments and orders**

69A.8 (1) Except for orders made by the commercial division judge on his own initiative and unless he orders otherwise, every judgment or order will be drawn up by the parties, and the rule 42.5 is modified accordingly.

(2) An application for a consent order must be made and such an application must include a draft of the proposed order signed on behalf of all the parties to whom it relates.

(3) The commercial division judge may deal with an application under paragraph (2) without a hearing.

(4) Rule 42.7 (consent judgments and orders) does not apply.”.

Commencement.

4. This Order shall come into operation on the 1<sup>st</sup> day of May, 2009.

Made this 29<sup>th</sup> day of April, 2009.

HON. HUGH RAWLINS,  
Chief Justice.

HON. MICHAEL GORDON,  
Justice of Appeal [Ag].

HON. KENNETH BENJAMIN,  
Judge of the High Court.