

New rules on commencement of proceedings before the BVI Commercial Court

News - 26/03/2021

The results of the Eastern Caribbean Supreme Court's wide-ranging review of its Civil Procedure Rules were distributed to BVI Bar Association members today, with proposed changes set to make the commencement of proceedings before the BVI High Court involving defendants not in the jurisdiction significantly more straightforward.

One of the review's recommendations is to remove the requirement to obtain the court's permission before court process, including a claim form, may be served out of the jurisdiction. Since so much of the BVI's Commercial Court caseload involves service out of the jurisdiction, such a move would make the commencement of proceedings much easier.

In practice, the changes would mean that proceedings can be issued and served outside the BVI without any application to the Court unless interim or associated relief is required. Safeguards remain in place for Defendants to continue to be able to challenge the BVI Court's jurisdiction.

The ECSC is not the first jurisdiction to adopt this approach, with other examples including the Dubai International Financial Centre, New Zealand and the United States.

Partner Nicholas Burkill, who was appointed by the Chief Justice to the ECSC Rules Review Committee, said: "These rule changes, together with recent statutory changes in the BVI and decisions of the BVI Commercial Court, will further support the important role that the BVI Commercial Court has developed in the resolution of international disputes."

Partner Nicholas Brookes, First Vice President of the BVI Bar Association and member of the BVI Bar Association Committee formed to make recommendations to the Rules Review Committee, said: "The modernisation of our court rules is welcomed by the BVI and illustrates how we and the Eastern Caribbean Court of Appeal continue to be a truly international forum for modern dispute resolution."

The consultation on this and other proposed rule changes is due to finish on 19 May 2021.

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