



**THE SUPREME COURT OF BERMUDA  
PRACTICE DIRECTION  
ISSUED BY THE CHIEF JUSTICE**

**AMENDED**

**Ref. A/50**

**CIRCULAR NO. 23 OF 2015**

**ACCESS TO COURT RECORDS IN CIVIL CASES**

1. With effect from 1<sup>st</sup> December 2015, members of the public will be entitled in civil cases filed as of that date, as they have been for many years in England & Wales, BVI and Cayman, amongst other common law jurisdictions, to apply without leave, on payment of the requisite fee, for copies of (a) originating process, and (b) judgments and orders in civil and commercial matters save for the following categories of cases:
  - (a) any case where by Order of the Court public access to such documents has been restricted;
  - (b) divorce proceedings and any other proceedings related to children;
  - (c) applications in relation to arbitration proceedings;
  - (d) applications for directions in relation to trusts;
  - (e) cases relating to the administration of the estates of deceased persons;
  - (f) winding-up proceedings (to which the Companies (Winding Up Rules 1982 apply) ;
  - (g) any other category of case which may be identified from time to time by way of Circular by the Registrar.

2. In due course it is anticipated that access to court records will be dealt with more comprehensively by rules of court.

Dated this 12<sup>th</sup> day of November 2015  
Re-dated this 16<sup>th</sup> day of November 2015



Ian R.C. Kawaley  
Chief Justice  
Cc: Attorney-General's Chambers  
Bermuda Bar Association  
Office of the Director Public Prosecutions  
Legal Aid Office/  
Magistrates' Court

## PUBLIC ACCESS TO COURT RECORDS: FAQ

1. **Q:** What legal principles govern access by members of the public who are not involved in a case to obtain copies of Court records?  
**A:** There are three main gateways for gaining automatic access to Court records if you are not a party to proceedings:
  - (1) where a case is no longer 'pending' or active because it is finally concluded, you can apply to the Registry for copies of documents under the Supreme Court (Records) Act 1955;
  - (2) where a case is pending, you can apply to the Registry for copies of any originating process (e.g. a writ, petition or originating summons) or orders made in the case under Order 63 rule 4 of the Rules of the Supreme Court 1905; and
  - (3) where reference is made in the course of a public hearing or in a public judgment to any documents on the Court file, you have a common law right to apply for copies of the relevant document(s). This access right was established in *Bermuda Press (Holdings) Ltd.-v-Registrar of Supreme Court* [2015] SC (Bda) 49 Civ (24 July 2015).
  
2. **Q:** Are any fees payable for obtaining copies of documents? If so, how much does it cost?  
**A:** Yes. The current fees are: \$10.00 (Praecipe to inspect file) + \$25 (Search Fee) + 50 cents per photocopied page.
  
3. **Q:** Are there any restrictions on the automatic right of access to documents described above?  
**A:** Yes. Automatic access to documents in current or pending cases **is not** available in respect of the following categories of cases on privacy grounds:
  - (1) any case where by Order of the Court public access to such documents has been restricted by a file sealing order;
  - (2) divorce proceedings and any other proceedings related to children;
  - (3) applications in relation to arbitration proceedings;
  - (4) all proceedings in relation to the administration of trusts;
  - (5) cases relating to the administration of the estates of deceased persons;

- (6) any other category of case which may be identified from time to time by way of Circular by the Registrar.
4. **Q:** When can requests for documents be made to the Registry?
- A:** Between the hours of 9:00 a.m. and 12:30 p.m. on Monday, Tuesdays and Wednesdays.
5. **Q:** Is it possible to obtain access to documents which are not automatically available in any circumstances?
- A:** Yes. It is possible to apply to the Registrar for permission to view and/or obtain copies of documents not automatically available. The Registrar will consult the parties to the case in question and then exercise the Court's discretion under Order 63 rule 4 of the Rules of the Supreme Court 1985.
6. **Q:** If the Registrar refuses to allow access to a document, can this decision be challenged?
- A:** Yes. A decision by the Registrar can be appealed to a Judge of the Supreme Court. The Judge's decision is subject to a right of appeal to the Court of Appeal for Bermuda.