

Rules of the High Court (Amendment) Rules 2007

The Rules of the High Court (Cap 4A)

Order 1 – CITATION, APPLICATION, INTERPRETATION AND FORMS

Remarks

PRELIMINARY

1. Citation (O. 1, r. 1)

These rules may be cited as the Rules of the High Court.

(25 of 1998 s. 2)

2. Application (O. 1, r. 2)

(1) Subject to the following provisions of this rule, these rules shall have effect in relation to all proceedings in the High Court.

(2) These rules shall not have effect in relation to proceedings of the kinds specified in the first column of the following Table (being proceedings in respect of which rules may be made under the enactments specified in the second column of that Table)-

| TABLE | |
|---|---|
| Proceedings | Enactments |
| 1. Bankruptcy proceedings. | Bankruptcy Ordinance (Cap 6), section 113. |
| 2. Proceeding relating to the winding-up of companies. | Companies Ordinance (Cap 32), section 296. |
| 3. Non-contentious or common form probate proceedings. | Probate and Administration Ordinance (Cap 10), section 72. |
| 4. Proceedings in the Court when acting as a Prize Court. | Prize Courts Act 1894, section 3. |
| 5. (Repealed 81 of 1997 s. 59) | |
| 6. Matrimonial proceedings. | Matrimonial Causes Ordinance (Cap 179), sections 10 and 54. |
| (HK)7. Adoption proceedings. | Adoption Ordinance (Cap 290), section 12. |
| (HK)8. Proceedings in respect of domestic violence. | Domestic Violence Ordinance (Cap 189), section 8. |

(3) These rules shall not have effect in relation to any criminal proceedings other than any criminal proceedings to which Order 53, Order 59, Order 62, Order

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70, Order 115, Order 116, Order 117, Order 118 or Order 119 applies. (L.N. 282 of 1989; L.N. 403 of 1992; L.N. 156 of 1995; L.N. 242 of 1996; L.N. 222 of 1997)

(4) In the case of the proceedings mentioned in paragraphs (2) and (3), nothing in those paragraphs shall be taken as affecting any provision of any rules (whether made under the Ordinance or any other Ordinance) by virtue of which the Rules of the High Court or any provisions thereof are applied in relation to any of those proceedings.

(25 of 1998 s. 2)

(5) These rules do not have effect in relation to an election petition lodged under an enactment specified in the first column of the following Table, except to the extent that the practice and procedure of the High Court are applied to that election petition by virtue of an enactment specified in the second column of the Table –

Rule 9,
Rec 10-16

TABLE

| | |
|--|---|
| <u>1. Legislative Council Ordinance (Cap. 542), Part VII.</u> | <u>Legislative Council (Election Petition) Rules (Cap. 542 sub. leg. F), rule 2.</u> |
| <u>2. District Councils Ordinance (Cap. 547), Part V.</u> | <u>District Councils (Election Petition) Rules (Cap. 547 sub. leg. C), rule 2.</u> |
| <u>3. Chief Executive Election Ordinance (Cap. 569), Part 6.</u> | <u>Chief Executive Election (Election Petition) Rules (Cap. 569 sub. leg. E), section 3.</u> |
| <u>4. Village Representative Election Ordinance (Cap. 576), Part 5.</u> | <u>Village Representative (Election Petition) Rules (Cap. 576 sub. leg. B), section 2.</u> |

3. Application of Interpretation and General Clauses Ordinance
(O. 1, r. 3)

The Interpretation and General Clauses Ordinance (Cap 1) shall apply for the interpretation of these rules as it applies to subsidiary legislation made after the commencement of that Ordinance.

4. Definitions (O. 1, r. 4)

(1) In these rules, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, namely-

“Amendment Rules 2007” () means the Rules of the High Court (Amendment) Rules 2007 (L.N. of 2007);

Rule 10
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“an action for personal injuries” (就人身傷害而提出的訴訟) means an action in which there is a claim for damages in respect of personal injuries to the plaintiff or any other person or in respect of a person's death, and "personal injuries" (人身傷害) includes any disease and any impairment of a person's physical or mental condition;

(HK) “bailiff” (執達主任) means a bailiff of the Court and any person lawfully authorized to execute the process of the Court;

“cause book” (訟案登記冊) means the book or other record kept in the Registry in which the letter and number of, and other details relating to, a cause or matter are entered; (L.N. 275 of 1998)

(HK) “Full Bench” (合議庭) means a Bench consisting of 2 or more Judges of the Court of First Instance; (25 of 1998 s. 2)

“judgment rate” (判定利率) means the rate of interest determined by the Chief Justice under section 49(1)(b) of the Ordinance; (18 of 2003 s. 12)

“master” (聆案官) means a master of the High Court and includes the Registrar of the High Court and a Senior Deputy Registrar, Deputy Registrar or Assistant Registrar of the High Court; (L.N. 99 of 1993; 25 of 1998 s. 2; 10 of 2005 s. 165)

(HK) “money lender's action” (放債人訴訟) has the meaning assigned to it by Order 83A;

“notice of intention to defend” (擬抗辯通知書) means an acknowledgment of service containing a statement to the effect that the person by whom or on whose behalf it is signed intends to contest the proceedings to which the acknowledgment relates;

“officer” (人員) means an officer of the High Court; (25 of 1998 s. 2)

“originating summons” (原訴傳票) means every summons other than a summons in a pending cause or matter;

“pleading” (狀書) does not include a petition, summons or preliminary act;

“practice direction” () means –

- (a) a direction issued by the Chief Justice as to the practice and procedure of the Court; or**
- (b) a direction issued by a specialist judge for his specialist list;**

“pre-action protocol” () means any code of practice designated as such and approved by a practice direction;”

Rule 2,
Rec 7-9, 84

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“probate action” (遺囑認證訴訟) has the meaning assigned to it by Order 76;

“receiver” (接管人) includes a manager or consignee;

(HK) “Registrar” (司法常務官) means the Registrar of the High Court; and includes a Senior Deputy Registrar, Deputy Registrar or Assistant Registrar of the High Court; (25 of 1998 s. 2; 10 of 2005 s. 165)

(HK) “Registry” (登記處) means the Registry of the High Court; (25 of 1998 s. 2)

(HK) “the Ordinance” (本條例) means the High Court Ordinance (Cap 4); (25 of 1998 s. 2)

“vacation” (休庭期) means the interval between sittings of the High Court as prescribed by Order 64; (25 of 1998 s. 2)

“writ” (令狀) means a writ of summons;

(HK) “written law” (成文法) includes “imperial enactment” and “Ordinance” and “enactment” as defined in section 3 of the Interpretation and General Clauses Ordinance (Cap 1).

(2) In these rules, unless the context otherwise requires, “the Court” (法院、法庭) means the Court of First Instance or any one or more of the judges thereof whether sitting in court or in chambers or the Registrar or any master but the foregoing provision shall not be taken as affecting any provision of these rules and, in particular, Order 32, rule 11 by virtue of which the authority and jurisdiction of the Registrar is defined and regulated. (25 of 1998 s. 2)

(3) In these rules unless the context otherwise requires, any reference to acknowledging service of a document or giving notice of intention to defend any proceedings is a reference to lodging in the Registry an acknowledgment of service of that document or, as the case may be, a notice of intention to defend those proceedings.

5. Construction of references to Orders, rules, etc. (O. 1, r. 5)

(1) Unless the context otherwise requires, any reference in these rules to a specified Order, rule or Appendix is a reference to that Order or rule of, or that Appendix to, these rules and any reference to a specified rule, paragraph or sub-paragraph is a reference to that rule of the Order, that paragraph of the rule, or that sub-paragraph of the paragraph, in which the reference occurs.

(2) Any reference in these rules to anything done under a rule of these rules includes a reference to the same thing done before the commencement of that rule under any corresponding rule of court ceasing to have effect on the commencement

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of that rule.

(3) Except where the context otherwise requires, any reference in these rules to any written law shall be construed as a reference to that written law as amended, extended or applied by or under any other written law.

6. Construction of references to action, etc. for possession of land
(O. 1, r. 6)

Except where the context otherwise requires, references in these rules to an action or claim for the possession of land shall be construed as including references to proceedings against the Government for an order declaring that the plaintiff is entitled as against the Government to the land or to the possession thereof.
(29 of 1998 s. 105)

(HK)7A. Construction of references to Registrar (O. 1, r. 7A)

(HK) Wherever the word "Registrar" appears in these rules and forms there may be substituted the word "Master" when and where appropriate.

9. Forms (O. 1, r. 9)

(1) The forms in the Appendices shall be used where applicable with such variations as the circumstances of the particular case require.

10. Rules not to exclude conduct of business by post (O. 1, r. 10)

Nothing in these rules shall prejudice any power to regulate the practice of the Court by giving directions enabling any business or class of business to be conducted by post.

(Enacted 1988)