

Rules of the High Court (Amendment) Rules 2007

The Rules of the High Court (Cap 4A)

Order 89 - PROCEEDINGS BETWEEN HUSBAND AND WIFE

Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

Remarks

1. Determination of questions as to property (O. 89, r. 1)

(HK)(1) Proceedings under section 6 of the Married Persons Status Ordinance (Cap 182) ~~must be~~ may be begun by originating summons.

Rule 41,
Rec 10 to 16

2. Provisions as to actions in tort (O. 89, r. 2)

(1) This rule applies to any action in tort brought by one of the parties to a marriage against the other during the subsistence of the marriage.

(2) On the first application by summons ~~or motion~~ in an action to which this rule applies, the Court shall consider, if necessary of its own motion, whether the power to stay the action under section 5(2) of the Married Persons Status Ordinance (Cap 182) should or should not be exercised.

Rule 42,
Rec 10 to 16

(3) Notwithstanding anything in Order 13 or Order 19, judgment on failure to give notice of intention to defend or in default of defence shall not be entered in an action to which this rule applies except with the leave of the Court.

(4) An application for grant of leave under paragraph (3) must be made by summons and the summons must, notwithstanding anything in Order 65, rule 9, be served on the defendant.

(5) If the summons is for leave to enter judgment on failure to give notice of intention to defend, the summons shall not be issued before the time limited for acknowledging service of the writ.

(Enacted 1988)

3. Transitional provision relating to rule 42 of Amendment Rules 2007 (O. 89, r. 3)

Rule 43,
Rec 10 to 16

Where, immediately before the commencement of rule 42 ("the amending rule") of the Amendment Rules 2007, an application by motion made under rule 2(2) as in force immediately before the commencement is

Remarks

pending, then the application is to be determined as if the amending rule had not been made.