

Rules of the District Court (Amendment) Rules 2008

The Rules of the District Court (Cap. 336H)

Order 20 – AMENDMENT

Remarks

1. Amendment of writ without leave (O. 20, r. 1)

(1) Subject to paragraph (3), the plaintiff may, without the leave of the Court, amend the writ once at any time before the pleadings in the action begun by the writ are deemed to be closed.

(2) Where a writ is amended under this rule after service thereof, then, unless the Court otherwise directs on an application made ex parte, the amended writ must be served on each defendant to the action.

(3) This rule shall not apply in relation to an amendment which consists of –

- (a) the addition, omission or substitution of a party to the action or an alteration of the capacity in which a party to the action sues or is sued; or
- (b) the addition or substitution of a new cause of action; or
- (c) (without prejudice to rule 3(1)) an amendment of the statement of claim (if any) indorsed on the writ,

unless the amendment is made before service of the writ on any party to the action.

2. Amendment of acknowledgment of service (O. 20, r. 2)

(1) Subject to paragraph (2), a party may not amend his acknowledgment of service without leave of the Court.

(2) A party whose acknowledgment of service contains a statement to the effect that –

- (a) he does; or
- (b) he does not,

intend to contest the proceedings to which the acknowledgment relates may, without the leave of the Court, amend the acknowledgment by substituting for that statement a statement to the opposite effect, provided that in a case falling under subparagraph (b) the amendment is made before judgment has been obtained in the proceedings.

(3) Where an acknowledgment of service is authorized to be amended under this rule, a fresh acknowledgment, amended as so authorized, must be handed in at or sent by post to the Registry, and Order 12, rule 4, shall apply.

3. Amendment of pleadings without leave (O. 20, r. 3)

- (1) A party may, without the leave of the Court, amend any pleading of his once at any time before the pleadings are deemed to be closed and, where he does so, he must serve the amended pleading on the opposite party.
- (2) Where an amended statement of claim is served on a defendant –
 - (a) the defendant, if he has already served a defence on the plaintiff, may amend his defence; and
 - (b) the period for service of his defence or amended defence, as the case may be, shall be either the period fixed by or under these Rules for service of his defence or a period of 14 days after the amended statement of claim is served on him, whichever expires later.
- (3) Where an amended defence is served on the plaintiff by a defendant –
 - (a) the plaintiff, if he has already served a reply on that defendant, may amend his reply; and
 - (b) the period for service of his reply or amended reply, as the case may be, shall be 14 days after the amended defence is served on him.
- (4) In paragraphs (2) and (3) references to a defence and a reply include references to a counterclaim and a defence to counterclaim respectively.
- (5) Where an amended counterclaim is served by a defendant on a party (other than the plaintiff) against whom the counterclaim is made, paragraph (2) shall apply as if the counterclaim were a statement of claim and as if the party by whom the counterclaim is made were the plaintiff and the party against whom it is made a defendant.
- (6) Where a party has pleaded to a pleading which is subsequently amended and served on him under paragraph (1), then, if that party does not amend his pleading under the foregoing provisions of this rule, he shall be taken to reply on it in answer to the amended pleading, and Order 18, rule 14(2), shall have effect in such a case as if the amended pleading had been served at the time when that pleading, before its amendment under paragraph (1), was served.

4. Application for disallowance of amendment made without leave (O. 20, r. 4)

- (1) Within 14 days after the service on a party of a writ amended under rule 1(1) or of a pleading amended under rule 3(1), that party may apply to the Court to disallow the amendment.
- (2) Where the Court hearing an application under this rule is satisfied that if an application for leave to make the amendment in question had been made under rule 5 at the date when the amendment was made under rule 1(1) or 3(1)

leave to make the amendment or part of the amendment would have been refused, it shall order the amendment or that part to be struck out.

(3) Any order made on an application under this rule may be made on such terms as to costs or otherwise as the Court thinks just.

5. Amendment of writ or pleading with leave (O. 20, r. 5)

(1) Subject to Order 15, rules 6, 7 and 8 and this rule, the Court may at any stage of the proceedings allow the plaintiff to amend his writ, or any party to amend his pleadings, on such terms as to costs or otherwise as may be just and in such manner (if any) as it may direct.

(2) Where an application to the Court for leave to make the amendment mentioned in paragraph (3), (4) or (5) is made after any relevant period of limitation current at the date of issue of the writ has expired, the Court may nevertheless grant such leave in the circumstances mentioned in those paragraphs if it thinks it just to do so.

(3) An amendment to correct the name of a party may be allowed under paragraph (2) notwithstanding that it is alleged that the effect of the amendment will be to substitute a new party if the Court is satisfied that the mistake sought to be corrected was a genuine mistake and was not misleading or such as to cause any reasonable doubt as to the identity of the person intending to sue or, as the case may be, intended to be sued.

(4) An amendment to alter the capacity in which a party sues may be allowed under paragraph (2) if the new capacity is one which that party had at the date of the commencement of the proceedings or has since acquired.

(5) An amendment may be allowed under paragraph (2) notwithstanding that the effect of the amendment will be to add or substitute a new cause of action if the new cause of action arises out of the same facts or substantially the same facts as a cause of action in respect of which relief has already been claimed in the action by the party applying for leave to make the amendment.

7. Amendment of originating summons, etc. (O. 20, r. 7)

Rule 22
Rec 11-16

Rule 5 shall have effect in relation to an originating summons, a petition and an originating notice or motion as it has effect in relation to a writ.

8. Amendment of pleading and certain other documents (O. 20, r. 8)

Rule 58
Rec 33, 34

(1) For the purpose of determining the real question in controversy between the parties to any proceedings, or of correcting any defect or error in any

Remarks

proceedings, the Court may at any stage of the proceedings and either of its own motion or on the application of any party to the proceedings ~~order any document~~ order a pleading or any other document in the proceedings to be amended on such terms as to costs or otherwise as may be just and in such manner (if any) as it may direct.

Rule 58
Rec 33, 34

(1A) The Court shall not under paragraph (1) order a pleading to be amended unless it is of the opinion that the order is necessary either for disposing fairly of the cause or matter or for saving costs.

(2) This rule shall not have effect in relation to a judgment or order.

9. Failure to amend after order (O. 20, r. 9)

(1) Where the Court makes an order under this Order giving any party leave to amend a writ, pleading or other document, then, if that party does not amend the document in accordance with the order before the expiration of the period specified for that purpose in the order or, if no period is so specified, of a period of 14 days after the order was made, the order shall cease to have effect, without prejudice, however, to the power of the Court to extend the period.

Rule 59
Rec 33, 34

(2) Paragraph (1) is subject to any directions given by the Court.

10. Mode of amendment of writ, etc. (O. 20, r. 10)

(1) Where the amendments authorized under any rule of this Order to be made in a writ, pleading or other document are so numerous or of such nature or length that to make written alterations of the document so as to give effect to them would make it difficult or inconvenient to read, a fresh document, amended as so authorized, must be prepared and, in the case of a writ or originating summons, re-issued, but, except as aforesaid and subject to any direction given under rule 5 or 8, the amendments so authorized may be effected by making in writing the necessary alterations of the document and in the case of a writ or originating summons, causing it to be resealed and filing a copy.

(2) A writ, pleading or other document which has been amended under this Order must be indorsed with a statement that it has been amended, specifying the date on which it was amended, the name of the judge or master by whom the order (if any) authorizing the amendment was made and the date thereof, or, if no such order was made, the number of the rule of this Order in pursuance of which the amendment was made.

11. Amendment of judgment and orders (O. 20, r. 11)

Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court on summons without an appeal.

12. Amendment of pleadings by agreement (O. 20, r. 12)

(1) Notwithstanding the foregoing provisions of this Order any pleading in any cause or matter may, by written agreement between the parties, be amended at any stage of the proceedings.

(1A) Order 18, rule 5A, shall apply to a pleading amended under this rule as if, for the period referred to in paragraph (1) of that rule, there were substituted the period of 7 days after the date of the written agreement referred to in paragraph (1) of this rule or the day immediately preceding the trial of the cause or matter, whichever be the earlier.

(2) This rule shall not have effect in relation to an amendment which consists of the addition, omission or substitution of a party.

13. Amendment of pleadings or particulars of pleadings to be verified by statement of truth (O. 20, r. 13)

Rule 52
Rec 26-32,35

(1) An amendment to a pleading or to the particulars of a pleading specified in paragraph (2) must be verified by a statement of truth in accordance with Order 41A.

(2) The particulars of a pleading referred to in paragraph (1) are the particulars given by a party to any other party, whether voluntarily or pursuant to –

(a) a request made by that other party; or

(b) an order of the Court made under Order 18, rule 12(3) or (4).