

Rules of the District Court (Amendment) Rules 2008

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

Order 83A – MONEY LENDERS’ ACTIONS

Remarks

1. Application and interpretation (O. 83A, r. 1)

(1) These Rules apply to a money lender’s action subject to the following rules of this Order.

(2) In this Order –

“money lender” (放債人) has the meaning assigned to it by section 2 of the Money Lenders Ordinance (Cap. 163);

“money lender’s action” (放債人訴訟) means an action for the recovery of money lent by a money lender or for the enforcement of any agreement or security relating to money so lent, being an action brought by the lender or an assignee.

2. Commencement of money lender’s action (O. 83A, r. 2)

(1) Every money lender’s action ~~shall be~~ may be begun by writ.

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(2) Before a writ beginning a money lender’s action is issued it must be indorsed with a statement that at the time of the making of the loan or contract or the giving of the security in question the lender was licensed as a money lender.

3. Particulars to be included in statement of claim (O. 83A, r. 3)

Every statement of claim in a money lender’s action (whether indorsed on the writ or not) must state –

- (a) the date on which the loan was made;
- (b) the amount actually lent to the borrower;
- (c) the rate per cent per annum of interest charged;
- (d) the date when the contract for repayment was made;
- (g) the amount repaid;
- (h) the amount due but unpaid;
- (i) the date upon which such unpaid sum or sums became due; and
- (j) the amount of interest accrued due and unpaid on every such sum.

4. Judgment on failure to give notice of intention to defend or in default of defence (O. 83A, r. 4)

- (1) In a money lender's action judgment on failure to give notice of intention to defend or in default of defence shall not be entered except with the leave of the Court.
- (2) (a) An application for the grant of leave under this rule must be made by summons supported by an affidavit which must –
 - (i) prove that the money is due and payable;
 - (ii) give the particulars required by rules 2 and 3; and
 - (iii) exhibit a true copy of any agreement or security relating to the money lent,and the original agreement or security must be produced at the hearing of the summons.
 - (b) The summons and a copy of the affidavit in support and of any exhibits referred to therein must, notwithstanding anything in Order 65, rule 9, be served on the defendant not less than 4 clear days before the day fixed for the hearing of the summons.
- (3) If the application is for leave to enter judgment on failure to give notice of intention to defend, the summons shall not be issued until after the time limited for acknowledgment of service of the writ.
- (4) On the hearing of such application, whether the defendant appears or not, the Court –
 - (a) may exercise the powers of the Court under section 25 of the Money Lenders Ordinance (Cap. 163);
 - (b) where it refuses leave under this rule to enter judgment on a claim or any part of a claim, may make or give any such order or directions as it might have made or given had the application been an application under Order 14, rule 1, for judgment on the claim.