

# **Rules of the District Court (Amendment) Rules 2008**

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

### **Order 90 – PROCEEDINGS CONCERNING MINORS**

#### **Remarks**

#### **1. Applications under Guardianship of Minors Ordinance and Parent and Child Ordinance (O. 90, r. 1)**

(1) Any application under the Guardianship of Minors Ordinance (Cap. 13) and the Parent and Child Ordinance (Cap. 429) ~~must be~~ may be made by originating summons.

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(2) Where the minor with respect to whom an application under the Guardianship of Minors Ordinance (Cap. 13) and the Parent and Child Ordinance (Cap. 429) is made is not the plaintiff he shall not, unless the Court otherwise directs, be made a defendant to the summons but, subject to paragraph (3), any other person appearing to be interested in, or affected by, the application shall be made a defendant.

(3) The Court may dispense with service of the summons on any person and may order it to be served on any person not originally served.

(4) Every application under paragraph (1) shall be heard by a judge who may dispose of the application in chambers.

#### **2. Verification and passing of guardians accounts (O. 90, r. 2)**

A guardian's account must be verified and passed in the same manner as that provided by Order 30 in relation to a receiver's account or in such other manner as the Court may direct.

#### **3. Application of Matrimonial Causes Rules (O. 90, r. 3)**

(1) The provisions of the Matrimonial Causes Rules (Cap. 179 sub. leg.) relating to proceedings under section 48 of the Matrimonial Causes Ordinance (Cap. 179) shall apply, with the necessary modifications, to proceedings under sections 13(1), 14 and 15 of the Guardianship of Minors Ordinance (Cap. 13).

(2) The provisions of the Matrimonial Causes Rules (Cap. 179 sub. leg.) relating to the drawing up and service of orders shall apply to proceedings under this Order as if they were proceedings under those Rules.

**4. Further provisions as to orders for supervision or care of a child**

(O. 90, r. 4)

An application by the Director of Social Welfare under the Guardianship of Minors Ordinance (Cap. 13) for the variation or discharge of an order made under that Ordinance or for directions as to the exercise of the powers of the Director under that order may, in case of urgency or where the application is unlikely to be opposed, be made by letter addressed to the Court and the Director shall, whenever practicable, notify any interested party of his intention to make the application.

**5. Removal of a child out of Hong Kong (O. 90, r. 5)**

(1) This rule and rules 6 and 7 shall apply to proceedings under the Guardianship of Minors Ordinance (Cap. 13) and the Separation and Maintenance Orders Ordinance (Cap. 16).

(2) An application for leave to remove a child under 18 permanently out of Hong Kong must be made to a judge unless the application is unopposed, in which case it may be made to the Registrar.

(3) The father or mother of a child under 18 may apply ex parte to a judge for an injunction restraining the other of them or any other person from removing the said child out of Hong Kong or out of the custody, care or control of any person named in the application.

**6. Reference to the Director of Social Welfare (O. 90, r. 6)**

(1) A judge or the Registrar may at any time refer to the Director of Social Welfare for investigation and report any matter concerning the welfare of a child which may arise in proceedings in the Court.

(2) Where a reference is made under this rule –

- (a) the Director may inspect and, with the approval of the judge or Registrar, copy from the Court file;
- (b) after completing his investigation, the Director shall file his report and the Registrar shall thereupon notify the parties that they may inspect it and may bespeak copies on payment of the prescribed fee; and
- (c) the Registrar shall give notice to the Director of the date of hearing of the application or other proceedings.

**7. Statement of other proceedings on application relating to child (O. 90, r. 7)**

If, at the time when an application to the Court relating to a child is made in any cause, any proceedings relating to the said child and brought after the cause was begun are pending in the High Court or the Court, the applicant must file a statement of the nature of those proceedings when he makes his application.