

Rules of the High Court (Amendment) Rules 2008

The Rules of the High Court (Cap. 4A)

Order 33 – PLACE AND MODE OF TRIAL

Remarks:

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

Remarks

TRIAL

1. Place of trial (O. 33, r. 1)

Subject to the provisions of these rules, the place of trial of a cause or matter, or of any question or issue arising therein, shall be determined by the Court and shall be either the High Court Building or such other place or places as may be authorized by the Chief Justice.

(25 of 1998 s. 2)

2. Mode of trial (O. 33, r. 2)

Subject to the provisions of these rules, a cause or matter, or any question or issue arising therein, may be tried before –

- (a) a judge alone, or
- (b) a judge with a jury, or
- (c) a judge with the assistance of assessors, or
- (e) a master.

3. Time, etc. of trial of questions or issues (O. 33, r. 3)

The Court may order any question or issue arising in a cause or matter, whether of fact or law or partly of fact and partly of law, and whether raised by the pleadings or otherwise, to be tried before, at or after the trial of the cause or matter, and may give directions as to the manner in which the question or issue shall be stated.

4. Determining the place and mode of trial (O. 33, r. 4)

(1) In every action begun by writ, ~~an order made on the summons for directions shall determine the place and mode of the trial; and any such order may be varied by a subsequent order of the Court made at or before the trial.~~ **the Court shall by order determine the place and mode of the trial.**

(2) In any such action different questions or issues may be ordered to be tried at different places or by different modes of trial and one or more questions or issues may be ordered to be tried before the others.

Rule 151
Consequential to
Order 25

(2A) In an action for personal injuries, the Court may at any stage of the proceedings and of its own motion make an order for the issue of liability to be tried before any issue or question concerning the amount of damages to be awarded and-

- (a) notwithstanding the provisions of Order 42, rule 5(5), an order so made in the absence of the parties shall be drawn up by an officer of the Court who shall serve a copy of the order on every party; and
- (b) where a party applies within 14 days after service of the order upon him, the Court may confirm or vary the order or set it aside. (L.N. 404 of 1991)

(4) Nothing in this rule affects the provisions of Order 103, rule 26, as to actions for the infringement of a patent.

4A. Split trial: offer on liability (O. 33, r. 4A)

(1) This rule applies where an order is made under rule 4(2) for the issue of liability to be tried before any issue or question concerning the amount of damages to be awarded if liability is established.

(2) After the making of an order to which paragraph (1) applies, any party against whom a finding of liability is sought may (without prejudice to his defence) make a written offer to the other party to accept liability up to a specified proportion.

(3) Any offer made under the preceding paragraph may be brought to the attention of the Judge after the issue of liability has been decided, but not before.

5. Trial with jury (O. 33, r. 5)

(1) The provisions of rule ~~4(1) and~~(2) are, as respects any action and as respects any question of fact arising in such an action, subject to the provisions of section 33A of the Ordinance, but an application for trial with a jury under that section (the time for making which is, under that section, to be limited by rules of court) must be made before the place and mode of trial is fixed under rule 4.

(2) The powers conferred by the said section 33A on a judge may be exercised by a master.

6. Trial with assistance of assessors (O. 33, r. 6)

A trial of a cause or matter with the assistance of assessors under section 53 of the Ordinance shall take place in such manner and on such terms as the Court may direct.

Rule 152
Consequential
Amendment

7. Dismissal of action, etc., after decision of preliminary issue (O. 33, r. 7)

If it appears to the Court that the decision of any question or issue arising in a cause or matter and tried separately from the cause or matter substantially disposes of the cause or matter or renders the trial of the cause or matter unnecessary, it may dismiss the cause or matter or make such other order or give such judgment therein as may be just. (See App. A, Form No. 48)

(Enacted 1988)