

# Rules of the High Court (Amendment) Rules 2008

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

### Order 34 – SETTING DOWN FOR TRIAL ACTION BEGUN BY WRIT

Remarks:

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

#### Remarks

#### 1. Application and interpretation (O. 34, r. 1)

(1) This Order applies to actions begun by writ and, accordingly, references in this Order to an action shall be construed as references to an action so begun.

#### 2. Time for setting down action (O. 34, r. 2)

(1) ~~Every~~ **Unless the Court has fixed a trial date or a period in which the trial is to take place under Order 25, rule 1A(2)(b) or (3)(b), every** order made in an action which provides for trial before a judge shall, whether the trial is to be with or without a jury, fix a period within which the plaintiff is to set down the action for trial.

Rule 153  
Consequential to  
Order 25

(2) Where the plaintiff does not, within the period fixed under paragraph (1), set the action down for trial, the defendant may set the action down for trial or may apply to the Court to dismiss the action for want of prosecution and, on the hearing of any such application, the Court may order the action to be dismissed accordingly or may make such order as it thinks just.

(3) Every order made in an action which provides for trial before a judge (otherwise than in the commercial list or in any list which may be specified for the purposes of this paragraph by directions under rule 4) shall contain an estimate of the length of the trial and, shall, subject to any such directions, specify the list in which the action is to be put.

#### 3. Lodging documents when setting down (O. 34, r. 3)

(1) In order to set down for trial an action which is to be tried before a Judge, the party setting it down must deliver to the Registrar, by post or otherwise, a request that the action may be set down for trial, together with a bundle (for the use of the judge) consisting of one copy each of the following documents that is to say –

- (a) the writ,
- (b) the pleadings (including any affidavits ordered to stand as pleadings) any request or order for particulars and the particulars given,

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Consequential to  
Order 25

- ~~(c) all orders made on the summons for directions, (L.N. 223 of 1995)~~  
**(c) all orders made –**  
**(i) pursuant to the questionnaire completed in accordance with Order 25, rule 1(1)(a);**  
**(ii) pursuant to a case management summons; and**  
**(iii) at a case management conference or pre-trial review,**  
(d) the requisite legal aid documents, if any, and (L.N. 223 of 1995)  
(e) all witness statements served under the provisions of Order 38, rule 2A. (L.N. 223 of 1995)

(2) The said bundle must be bound up in the proper chronological order, save that voluntary particulars of any pleading and particulars to which Order 18, rule 12(7) applies shall be placed immediately after the pleading to which they relate.

(3) In this rule “the requisite legal aid documents” (必需的法律援助文件) means any documents which are required to be filed in the Registry under the Legal Aid Ordinance (Cap. 91) or the regulations made thereunder. (L.N. 165 of 1992)

**4. Directions relating to lists (O. 34, r. 4)**

Nothing in this Order shall prejudice any powers of the Chief Justice to give directions –

- (a) specifying the lists in which actions, or actions of any class or description, are to be set down for trial and providing for the keeping and publication of the lists;
- (b) providing for the determination of a date for the trial of any action which has been set down or a date before which the trial thereof is not to take place; and
- (c) as to the making of applications (whether to the Court or an officer of the Court) to fix, vacate or alter any such date, and, in particular, requiring any such application to be supported by an estimate of the length of the trial and any other relevant information.

**8. Notification of setting down (O. 34, r. 8)**

(1) A party to an action who sets it down for trial must, within 24 hours after doing so, notify the other parties to the action that he has done so.

(2) It shall be the duty of all parties to an action entered in any list to furnish without delay to the officer who keeps the list all available information as to the action being or being likely to be settled, or affecting the estimated length of the trial, and, if the action is settled or withdrawn, to notify that officer of the fact without delay and take such steps as may be necessary to withdraw the record.

(3) In performance of the duty imposed by paragraph (2), a plaintiff who gives

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notice of acceptance of a ~~payment into court in accordance with Order 22, rule 3(1)~~ **sanctioned payment or a sanctioned offer in accordance with Order 22**, shall at the same time lodge a copy of the notice with the officer mentioned in that paragraph.

**9. Abatement, etc., of action (O. 34, r. 9)**

(1) Where after an action has been set down for trial the action becomes abated, or the interest or liability of any party to the action is assigned or transmitted to or devolves on some other person, the solicitor for the plaintiff or other party having the conduct of the action must, as soon as practicable after becoming aware of it, certify the abatement or change of interest or liability and send the certificate to the officer who keeps the list, and that officer shall cause the appropriate entry to be made in the list of actions set down for trial.

(2) Where in any such list an action stands for one year marked as abated or ordered to stand over generally, the action shall on the expiration of that year be struck out of the list unless, in the case of an action ordered to stand over generally, the order otherwise provides.

(Enacted 1988)