

# Rules of the High Court (Amendment) Rules 2008

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

### Order 5 – MODE OF BEGINNING CIVIL PROCEEDINGS IN THE COURT OF FIRST INSTANCE

#### Remarks

#### 1. Mode of beginning civil proceedings (O. 5, r. 1)

Subject to the provisions of any written law and of these rules, civil proceedings in the Court of First Instance may be begun by writ, ~~originating summons, originating motion or petition~~ or originating summons.

(25 of 1998 s. 2)

Rule 16  
Rec 14

#### ~~2. Proceedings which must be begun by writ (O. 5, r. 2)~~

~~Subject to any provision of any written law, or of these rules, by virtue of which any proceedings are expressly required to be begun otherwise than by writ, the following proceedings must, notwithstanding anything in rule 4, be begun by writ, that is to say, proceedings-~~

- ~~(a) in which a claim is made by the plaintiff for any relief or remedy for any tort, other than trespass to land;~~
- ~~(b) in which a claim made by the plaintiff is based on an allegation of fraud;~~
- ~~(c) in which a claim is made by the plaintiff for damages for breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under any written law, or independently of any contract or any such provision), where the damages claimed consist of or include damages in respect of the death of any person or in respect of personal injuries to any person or in respect of damage to any property;~~
- ~~(d) in which a claim is made by the plaintiff in respect of the infringement of a patent.~~

Rule 17  
Rec 12

#### ~~3. Proceedings which must be begun by originating summons (O. 5, r. 3)~~

~~Proceedings by which an application is to be made to the Court of First Instance or a judge thereof under any written law must be begun by originating summons except where by these rules or by or under any written law the application in question is expressly required or authorized to be made by some other means. This rule does not apply to an application made in pending proceedings.~~

~~(25 of 1998 s. 2)~~

Rule 17  
Rec 12

**4. Proceedings which may be begun by writ or originating summons**

(O. 5, r. 4)

~~(1) Except in the case of proceedings which by these rules or by or under any written law are required to be begun by writ or originating summons or are required or authorized to be begun by originating motion or petition, proceedings may be begun either by writ or by originating summons as the plaintiff considers appropriate.~~

Rule 18  
Rec 11-14

**(1) Except in the case of proceedings which under any written law are required or authorized to be begun by a specific form of originating process, proceedings may be begun either by writ or by originating summons as the plaintiff considers appropriate.**

(2) Proceedings-

- (a) in which the sole or principal question at issue is, or is likely to be, one of the construction of any written law or of any instrument made under any written law or of any deed, will, contract or other document, or some other question of law, or
- (b) in which there is unlikely to be any substantial dispute of fact, are appropriate to be begun by originating summons unless the plaintiff intends in those proceedings to apply for judgment under Order 14 or Order 86 or for any other reason considers the proceedings more appropriate to be begun by writ.

**5. Proceedings to be begun by motion or petition (O. 5, r. 5)**

Proceedings may be begun by originating motion or petition if, but only if, ~~by these rules or by or~~ under any written law the proceedings in question are required or authorized to be so begun.

Rule 19  
Rec 11

**6. Right to sue in person (O. 5, r. 6)**

(1) Subject to paragraph (2) and to Order 80, rule 2, any person (whether or not he sues as a trustee or personal representative, or in any other representative capacity) may begin and carry on proceedings in the High Court by a solicitor or in person. (25 of 1998 s. 2)

(2) A body corporate may not begin or carry on any such proceedings in the Court otherwise than by a solicitor except-

- (a) as expressly provided by or under any enactment; or
- (b) where leave is given under paragraph (3) for it to be represented by one of its directors.

(3) (a) An application by a body corporate for leave to be represented by one of its directors shall be made ex parte to a Registrar and supported by

**Remarks**

an affidavit, made by the director and filed with the application, stating and verifying the reasons why leave should be given for the body corporate to be represented by the director.

(L.N. 99 of 1993; L.N. 108 of 2002)

- (b) The relevant resolution of the board of the body corporate authorizing the director to appear on its behalf if leave is granted shall be exhibited to the affidavit.

(4) No appeal shall lie from an order of the Registrar under paragraph (3) giving or refusing leave.

(5) Leave given by a Registrar under paragraph (3) may be revoked by the Court at any time.

(6) No appeal shall lie from an order of the Court revoking leave given by a Registrar.

(Enacted 1988)

**7. Transitional provision relating to rule 16 of Amendment Rules 2008 (O. 5, r. 7)**

Rule 20  
Transitional

**Any civil proceedings begun by originating motion or petition before the commencement of the Amendment Rules 2008 and pending immediately before the commencement may be continued and disposed of as if rule 16 of the Amendment Rules 2008 had not been made.**