

# Rules of the High Court (Amendment) Rules 2008

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

### Order 67 – CHANGE OF SOLICITOR

#### Remarks

#### 1. Notice of change of solicitor (O. 67, r. 1)

(1) A party to any cause or matter who sues or defends by a solicitor may change his solicitor without an order for that purpose but, unless and until notice of the change is filed and copies of the notice are lodged and served in accordance with this rule, the former solicitor shall, subject to rules 5 and 6, be considered the solicitor of the party until the final conclusion of the cause or matter, whether in the Court of First Instance or the Court of Appeal. (25 of 1998 s. 2)

(2) Notice of a change of solicitor must be filed, and a copy thereof lodged in the Registry.

(3) The party giving the notice must serve on every other party to the cause or matter (not being a party in default as to acknowledgment of service) and on the former solicitor a copy of the notice indorsed with a memorandum stating that the notice has been duly filed in the Registry.

(4) The party giving the notice may perform the duties prescribed by this rule in person or by his new solicitor.

#### 3. Notice of appointment of solicitor (O. 67, r. 3)

Where a party, after having sued or defended in person, appoints a solicitor to act in the cause or matter on his behalf, the change may be made without an order for that purpose and rule 1(2), (3) and (4) shall, with the necessary modifications, apply in relation to a notice of appointment of a solicitor as they apply in relation to a notice of change of solicitor.

#### 4. Notice of intention to act in person (O. 67, r. 4)

Where a party, after having sued or defended by a solicitor, intends and is entitled to act in person, the change may be made without an order for that purpose and rule 1 shall, with the necessary modifications, apply in relation to a notice of intention to act in person as it applies in relation to a notice of change of solicitor except that the notice of intention to act in person must contain an address for service of the party giving it.

**5. Removal of solicitor from record at instance of another party (O. 67, r. 5)**

(1) Where –

- (a) a solicitor who has acted for a party in a cause or matter has died or become bankrupt or cannot be found or has failed to take out a practising certificate or has been struck off the roll of solicitors or has been suspended from practising or has for any other reason ceased to practise, and
- (b) the party has not given notice of change of solicitor or notice of intention to act in person in accordance with the foregoing provisions of this Order,

any other party to the cause or matter may apply to the Court, or if an appeal to the Court of Appeal is pending in the cause or matter, to the Court of Appeal, for an order declaring that the solicitor has ceased to be the solicitor acting for the first-mentioned party in the cause or matter, and the Court or Court of Appeal, as the case may be, may make an order accordingly.

(2) An application for an order under this rule must be made by summons ~~or, in the case of an application to the Court of Appeal, by motion, and the summons or notice of the motion~~ and the summons must, unless the Court or Court of Appeal, as the case may be, otherwise directs, be served on the party to whose solicitor the application relates.

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The application must be supported by an affidavit stating the grounds of the application.

(3) Where an order is made under this rule the party on whose application it was made must –

- (a) serve on every other party to the cause or matter (not being a party in default as to acknowledgment of service) a copy of the order, and
- (b) procure the order to be entered in the Registry, and
- (c) leave at the Registry a copy of the order and a certificate signed by him or his solicitor that the order has been duly served as aforesaid.

(4) An order made under this rule shall not affect the rights of the solicitor and the party for whom he acted as between themselves.

**6. Withdrawal of solicitor who has ceased to act for party (O. 67, r. 6)**

(1) Where a solicitor who has acted for a party in a cause or matter has ceased so to act and the party has not given notice of change in accordance with rule 1, or notice of intention to act in person in accordance with rule 4, the solicitor may apply to the Court for an order declaring that the solicitor has ceased to be the solicitor acting for the party in the cause or matter, and the Court or Court of Appeal, as the case may be, may make an order accordingly, but, unless and until the solicitor –

- (a) serves on every party to the cause or matter (not being a party in default as to acknowledgment of service) a copy of the order, and
- (b) procures the order to be entered in the Registry, and

(c) leaves at the Registry a copy of the order and a certificate signed by him that the order has been duly served as aforesaid, he shall, subject to the foregoing provisions of this Order, be considered the solicitor of the party till the final conclusion of the cause or matter whether in the Court of First Instance or Court of Appeal. (25 of 1998 s. 2)

(2) An application for an order under this rule must be made by summons which must, unless the Court or the Court of Appeal, as the case may be, otherwise directs, be served on the party for whom the solicitor acted. The application must be supported by an affidavit stating the grounds of the application. (L.N. 363 of 1990)

(3) An order made under this rule shall not affect the rights of the solicitor and the party for whom he acted as between themselves.

(4) Notwithstanding anything in paragraph (1), where the certificate of an assisted person within the meaning of the Legal Aid Ordinance (Cap. 91) is revoked or discharged, the solicitor who acted for the assisted person shall cease to be the solicitor acting in the cause or matter as soon as his retainer is determined under that Ordinance; and if the assisted person whose certificate has been revoked or discharged desires to proceed with the cause or matter without legal aid and appoints that solicitor or another solicitor to act on his behalf, the provisions of rule 3 shall apply as if that party had previously sued or defended in person.

**(HK)6A. Leave required to inspect affidavits (O. 67, r. 6A)**

(HK) Notwithstanding the provisions of Order 63, rule 4(2), the leave of the Court or the Court of Appeal, as the case may be, is required before inspection can be made, or any copy obtained, of any affidavit made or filed pursuant to rule 6(2). (L.N. 167 of 1994)

**7. Address for service of party whose solicitor is removed, etc. (O. 67, r. 7)**

Where –

- (a) an order is made under rule 5, or
- (b) an order is made under rule 6, and the applicant for that order has complied with rule 6(1), or
- (c) the certificate of an assisted person within the meaning of the Legal Aid Ordinance (Cap. 91) is revoked or discharged,

then, unless and until the party to whose solicitor or to whom, as the case may be, the order or certificate relates either appoints another solicitor and complies with rule 3 or, being entitled to act in person, gives notice of his intention so to do and complies with rule 4, his last known address or, where the party is a body corporate, its registered or principal office shall, for the purpose of the service on him of any document not required to be served personally, be deemed to be his address for service.

**9. Order to apply to matrimonial causes and matters (O. 67, r. 9)**

This Order shall have effect in relation to matrimonial causes and matters and, in its application to such a cause or matter, any reference in rules 4 and 7 to an address for service shall be construed as a reference to the address for service required by the rules in force by virtue of the provisions of section 10 or made under section 54 of the Matrimonial Causes Ordinance (Cap. 179).

(Enacted 1988)