

Rules of the High Court (Amendment) Rules 2008

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

Order 71 – RECIPROCAL ENFORCEMENT OF JUDGMENTS

Remarks

2. Application for registration (O. 71, r. 2)

- (1) An application under section 4 of the Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap. 319), (in this Order referred to as “the Ordinance”) in respect of a judgment to which the Ordinance applies to have the judgment registered in the Court may be made ex parte, but the Court may direct a summons to be issued. (See App. A, Form 63)
- (2) If the Court directs a summons to be issued, the summons shall be an originating summons.
- (3) An originating summons under this rule shall be in Form No. 10 in Appendix A.

3. Evidence in support of application (O. 71, r. 3)

- (1) An application for registration must be supported by an affidavit –
 - (a) exhibiting the judgment or a verified or certified or otherwise duly authenticated copy thereof and, where the judgment is not in the English language, a translation thereof in that language certified by a notary public or authenticated by affidavit;
 - (b) stating the name, trade or business and the usual or last known place of abode or business of the judgment creditor and the judgment debtor respectively, so far as known to the deponent;
 - (c) stating to the best of the information or belief of the deponent –
 - (i) that the judgment creditor is entitled to enforce the judgment;
 - (ii) as the case may require, either that at the date of the application the judgment has not been satisfied, or the amount in respect of which it remains unsatisfied;
 - (iv) that at the date of the application the judgment can be enforced by execution in the country of the original court and that, if it were registered, the registration would not be, or be liable to be, set aside under section 6 of the Ordinance;
 - (d) specifying the amount of the interest, if any, which under the law of the country of the original court has become due under the judgment up to the time of registration.
- (2) Where a judgment sought to be registered is in respect of different matters, and some, but not all, of the provisions of the judgment are such that if those

provisions had been contained in separate judgments, those judgments could properly have been registered, the affidavit must state the provisions in respect of which it is sought to register the judgment.

(3) The affidavit must be accompanied by such other evidence with respect to the enforceability of the judgment by execution in the country of the original court, and of the law of that country under which any interest has become due under the judgment, as may be required having regard to the provisions of the Order in Council extending the Ordinance to that country.

4. Security for costs (O. 71, r. 4)

Save as otherwise provided by any relevant Order in Council, the Court may order the judgment creditor to give security for the costs of the application for registration and of any proceedings which may be brought to set aside the registration.

5. Order for registration (O. 71, r. 5)

(1) An order giving leave to register a judgment must be drawn up by, or on behalf of, the judgment creditor.

(2) Except where the order is made on summons, no such order need be served on the judgment debtor.

(3) Every such order shall state the period within which an application may be made to set aside the registration and shall contain a notification that execution on the judgment will not issue until after the expiration of that period.

(4) The Court may, on an application made at any time while it remains competent for any party to apply to have the registration set aside, extend the period (either as originally fixed or as subsequently extended) within which an application to have the registration set aside may be made.

6. Register of judgments (O. 71, r. 6)

(1) There shall be kept in the Registry under the direction of the Registrar a register of the judgments ordered to be registered under the Ordinance.

(2) There shall be included in each such register particulars of any execution issued on a judgment ordered to be so registered.

7. Notice of registration (O. 71, r. 7)

(1) Notice of the registration of a judgment must be served on the judgment

debtor by delivering it to him personally or by sending it to him at his usual or last known place of abode or business or in such other manner as the Court may direct.

(2) Service of such a notice out of the jurisdiction is permissible without leave, and Order 11, rules 5, 6 and 8, shall apply in relation to such a notice as they apply in relation to notice of a writ.

(3) The notice of registration must state –

- (a) full particulars of the judgment registered and the order for registration,
- (b) the name and address of the judgment creditor or of his solicitor or agent on whom, and at which, any summons issued by the judgment debtor may be served,
- (c) the right of the judgment debtor to apply to have the registration set aside, and
- (d) the period within which an application to set aside the registration may be made.

9. Application to set aside registration (O. 71, r. 9)

(1) An application to set aside the registration of a judgment must be made by summons supported by affidavit.

(2) The Court hearing such application may order any issue between the judgment creditor and the judgment debtor to be tried in any manner in which an issue in an action may be ordered to be tried.

(HK)(3) The Court may, either of its own motion or on an application made by the judgment creditor, and if, having regard to all the circumstances of the case it thinks it just to do so, impose such terms, as to giving security or otherwise, as a condition of the further conduct of an application under this rule, as it thinks fit. (L.N. 127 of 1995)

10. Issue of execution (O. 71, r. 10)

(1) Execution shall not issue on a judgment registered under the Ordinance until after the expiration of the period which, in accordance with rule 5(3), is specified in the order for registration as the period within which an application may be made to set aside the registration or, if that period has been extended by the Court, until after the expiration of that period as so extended.

(2) If an application is made to set aside the registration of a judgment, execution on the judgment shall not issue until after such application is finally determined.

(3) Any party wishing to issue execution on a judgment registered under the Ordinance must produce to the Registrar an affidavit of service of the notice of registration of the judgment and any order made by the Court in relation to the judgment.

11. Determination of certain questions (O. 71, r. 11)

If, in any case under the Ordinance, any question arises whether a foreign judgment can be enforced by execution in the country of the original court, or what interest is payable under a foreign judgment under the law of the original court, that question shall be determined in accordance with the provisions in that behalf contained in the Order in Council extending the Ordinance to that country.

12. Rules to have effect subject to Orders in Council (O. 71, r. 12)

The foregoing rules shall, in relation to any judgment registered or sought to be registered under the Ordinance, have effect subject to any such provisions contained in the Order in Council extending the Ordinance to the country of the original court as are declared by the Order to be necessary for giving effect to the agreement made between Hong Kong and that country in relation to matters with respect to which there is power to make those rules.

13. Certified copy of judgment (O. 71, r. 13)

(1) An application under section 12 of the Ordinance for a certified copy of a judgment entered in the Court of First Instance must be made ex parte to the Registrar on affidavit.

(3) An affidavit by which an application under section 12 of the Ordinance is made must –

- (a) give particulars of the proceedings in which the judgment was obtained;
- (b) (Repealed L.N. 103 of 1994)
- (c) state whether the defendant did or did not object to the jurisdiction, and, if so, on what grounds;
- (d) show that the judgment is not subject to any stay of execution;
- (e) state that the time for appealing has expired or, as the case may be, the date on which it will expire and in either case whether notice of appeal against the judgment has been entered; and
- (f) state the rate at which the judgment carries interest.

(4) The certified copy of the judgment shall be an office copy sealed with the Seal of the High Court and indorsed with a certificate signed by the Registrar certifying that the copy is a true copy of a judgment obtained in the Court of First Instance of Hong Kong and that it is issued in accordance with section 12 of the Ordinance.

(5) There shall also be issued a certificate (signed by the Registrar and sealed with the Seal of the High Court) having annexed to it a copy of the writ, originating summons or other process by which the proceedings were begun, and stating –

Remarks

- (a) the manner in which the writ or such summons or other process was served on the defendant or that the defendant acknowledged service thereof,
- (b) what objections, if any, were made to the jurisdiction,
- (c) what pleadings, if any, were served,
- (d) the grounds on which the judgment was based,
- (e) that the time for appealing has expired or, as the case may be, the date on which it will expire,
- (f) whether notice of appeal against the judgment has been entered, and
- (g) such other particulars as it may be necessary to give to the court in the foreign country in which it is sought to obtain execution of the judgment,

and a certificate (signed and sealed as aforesaid) stating the rate at which the judgment carries interest.

(25 of 1998 s. 2)

ENFORCEMENT OF RECOMMENDATIONS ETC. UNDER THE ~~MERCHANT SHIPPING (LINER CONFERENCES) ACT 1982~~ MERCHANT SHIPPING (LINER CONFERENCES) ORDINANCE (CAP. 482)

Rule 269

41. Application for registration (O. 71, r. 41)

An application under ~~section 9 of the Merchant Shipping (Liner Conferences) Act 1982 (1982 c. 37 U.K.) (in this Order referred to as “the Act of 1982”)~~ section 10 of the Merchant Shipping (Liner Conferences) Ordinance (Cap. 482) (in this Order referred to as “the Liner Conferences Ordinance”) for the registration of a recommendation, determination or award shall be made by originating summons, which shall be in Form No. 10 in Appendix A.

Rule 270
Tidying up

42. Evidence in support of application (O. 71, r. 42)

- (1) An application under ~~section 9 of the Act of 1982~~ section 10 of the Liner Conferences Ordinance for the registration of a recommendation must be supported by an affidavit –
 - (a) exhibiting a verified or certified or otherwise duly authenticated copy of the recommendation and the reasons therefor and of the record of settlement;
 - (b) where the recommendation and reasons or the record of settlement or the acceptance of the recommendation is not in the English language, a translation thereof into English certified by a notary public or authenticated by affidavit;
 - (c) exhibiting copies of the acceptance of the recommendation by the parties upon whom it is binding, where the acceptance was in writing, or otherwise verifying the acceptance;
 - (d) giving particulars of the failure to implement the recommendations; and
 - (e) verifying that none of the grounds which would render the

Rule 271
Tidying up

Remarks

recommendation unenforceable under ~~section 9(2) of the Act of 1982~~ **section 10(2) of the Liner Conferences Ordinance** is applicable.

- (2) An application under ~~section 9 of the Act of 1982~~ **section 10 of the Liner Conferences Ordinance** for the registration of a determination or award as to costs must be supported by an affidavit –
- (a) exhibiting a verified or certified or otherwise duly authenticated copy of the recommendation or other document containing the pronouncement on costs; and
 - (b) stating that such costs have not been paid.

43. Order for registration (O. 71, r. 43)

(1) An order giving leave to register a recommendation, determination or award under ~~section 9 of the Act of 1982~~ **section 10 of the Liner Conferences Ordinance** must be drawn up by or on behalf of the party making the application for registration.

Rule 272

(2) Such an order shall contain a provision that the reasonable costs of registration be taxed.

44. Register of recommendations etc. (O. 71, r. 44)

(1) There shall be kept in the Registry under the direction of the Registrar a register of the recommendations, determinations and awards ordered to be registered under ~~section 9 of the Act of 1982~~ **section 10 of the Liner Conferences Ordinance**.

Rule 273

(2) There shall be included in such register particulars of the enforcement of a recommendation, determination or award so registered.

(Enacted 1988)