

Rules of the High Court (Amendment) Rules 2008

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

Order 72 – (HK) PARTICULAR PROCEEDINGS

Remarks

1. Application and interpretation (O. 72, r. 1)

(1) This Order applies to particular proceedings, and the other provisions of these rules apply to those actions subject to the provisions of this Order.

(2) In this Order “particular proceedings” (特定法律程序) means a type of proceedings for which provision has been made by the Chief Justice for separate listing.

2. The Various Lists (O. 72, r. 2)

(1) There may be lists, in which actions and other proceedings may be entered in accordance with the provisions of this Order, and a judge shall be in charge of each list. (L.N. 307 of 1998)

(2) In this Order references to the judge shall be construed as references to the judge for the time being in charge of a particular list.

(3) The judge shall have control of the proceedings in his particular list and, subject to the provisions of this Order and to any directions of the judge, the powers of a judge in chambers (including those exercisable by the Registrar) shall, in relation to any proceedings in such an action (including any appeal from any judgment, order or decision of the Registrar, given or made prior to the transfer of the action or proceedings to the relevant list) be exercisable by the judge.

(4) Paragraph (3) shall not be construed as preventing the powers of the judge being exercised by some other judge.

4. Entry of action in particular list when action begun (O. 72, r. 4)

(1) Before a writ or originating summons by which particular proceedings are to be begun is issued out of the Registry, it may be marked in the top left hand corner with words identifying the relevant list, and on the issue of a writ or summons so marked the action begun thereby shall be entered in that list.

(2) If the plaintiff intends to issue the writ or originating summons by which particular proceedings are to be begun out of the Registry and to mark it in accordance with paragraph (1), and the writ or the originating summons, as the case

may be, is to be served out of the jurisdiction, an application for leave to issue the writ or summons and to serve the writ or the summons out of the jurisdiction may be made to the judge.

(3) The affidavit in support of an application made to the judge by virtue of paragraph (2) must, in addition to the matters required by Order 11, rule 4(1), to be stated, state that the plaintiff intends to mark the writ or originating summons in accordance with paragraph (1) of this rule.

(4) If the judge hearing an application made to him by virtue of paragraph (2) is of opinion that the action in question should not be entered in the list in question, he may adjourn the application to be heard by the Registrar.

5. Transfer of action to particular list after action begun (O. 72, r. 5)

(1) At any stage of the proceedings in any action any party thereto may apply by summons to the judge to transfer the action to a particular list.

(3) If, at any stage of the proceedings in any action, it appears to the Court that the action may be one suitable for trial in a particular list and any party wishes the action to be transferred to that list, then the Court may adjourn any hearing so that it can proceed before the judge and be treated by him as a summons to transfer the action to that list.

6. Removal of action from particular list (O. 72, r. 6)

(1) The judge may, of his own motion or on the application of any party, order an action in a particular list to be removed from that list. (L.N. 126 of 1995)

(2) Where an action is in a particular list by virtue of rule 4, an application by a defendant or third party for an order under this rule must be made within 7 days after giving notice of intention to defend.

7. Pleadings in particular proceedings (O. 72, r. 7)

(1) The pleadings in an action in a particular list may be in the form of points of claim, or of defence, counterclaim, defence to counterclaim or reply, as the case may be, and must be as brief as possible.

(2) Without prejudice to Order 18, rule 12(1), no particulars shall be applied for or ordered in an action in the particular list designated the commercial list except such particulars as are necessary to enable the party applying to be informed of the case he has to meet or as are for some other reason necessary to secure the just, expeditious and economical disposal of any question at issue in the proceedings.

Remarks

(3) The foregoing provisions are without prejudice to the power of the judge to order that an action in a particular list shall be tried without pleadings or further pleadings, as the case may be.

8. Directions in particular proceedings (O. 72, r. 8)

(1) Notwithstanding anything in Order 25, ~~rule 1(1)~~ **rule 1(1B)(b)**, any party to particular proceedings may take out a ~~summons for directions~~ **case management summons** before the pleadings are deemed to be closed.

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(2) Where an application is made to transfer an action to a particular list, Order 25, rules 2 to 7, shall, with the omission of so much of rule 7(1) as requires the parties to serve a notice specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application were a ~~summons for directions~~ **case management summons**.

9. (Repealed 13 of 1995 s. 20)

10. Production of certain documents in marine insurance actions (O. 72, r. 10)

(1) Where in an action in a particular list relating to a marine insurance policy an application for an order under Order 24, rule 3, is made by the insurer, then, without prejudice to its powers under that rule, the Court, if satisfied that the circumstances of the case are such that it is necessary or expedient to do so, may make an order, either in Form No. 94 in Appendix A or in such other form as it thinks fit, for the production of such documents as are therein specified or described.

(2) An order under this rule may be made on such terms, if any, as to staying proceedings in the action or otherwise, as the Court thinks fit.

(3) In this rule “the Court” (法庭) means the judge.

(Enacted 1988)