

Rules of the High Court (Amendment) Rules 2008

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

Order 82 – DEFAMATION ACTIONS

Remarks:

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

Remarks

1. **Application** (O. 82, r. 1)

These rules apply to actions for libel or slander subject to the following rules of this Order.

2. **Indorsement of claim in libel action** (O. 82, r. 2)

Before a writ in an action for libel is issued it must be indorsed with a statement giving sufficient particulars of the publications in respect of which the action is brought to enable them to be identified.

3. **Obligation to give particulars** (O. 82, r. 3)

(1) Where in an action for libel or slander the plaintiff alleges that the words or matters complained of were used in a defamatory sense other than their ordinary meaning, he must give particulars of the facts and matters on which he relies in support of such sense.

(2) Where in an action for libel or slander the defendant alleges that, in so far as the words complained of consist of statements of fact, they are true in substance and in fact, and in so far as they consist of expressions of opinion, they are fair comment on a matter of public interest, or pleads to the like effect, he must give particulars stating which of the words complained of he alleges are statements of fact and of the facts and matters he relies on in support of the allegation that the words are true.

(3) Where in an action for libel or slander the plaintiff alleges that the defendant maliciously published the words or matters complained of, he need not in his statement of claim give particulars of the facts on which he relies in support of the allegation of malice, but if the defendant pleads that any of those words or matters are fair comment on a matter of public interest or were published on a privileged occasion and the plaintiff intends to allege that the defendant was actuated by express malice, he must serve a reply giving particulars of the facts and matters from which the malice is to be inferred.

(4) This rule shall apply in relation to a counterclaim for libel or slander as if the party making the counterclaim were the plaintiff and the party against whom it is made the defendant.

4. Provisions as to payment into court (O. 82, r. 4)

(1) Where in an action for libel or slander against several defendants sued jointly the plaintiff, in accordance with ~~Order 22, rule 3(1)~~ **Order 22**, accepts money paid into court by any of those defendants in satisfaction of his cause of action against that defendant, then, notwithstanding anything in ~~rule 3(4)~~ of that Order, the action shall be stayed as against that defendant only, but –

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- (a) the sum recoverable under any judgment given in the plaintiff's favour against any other defendant in the action by way of damages shall not exceed the amount (if any) by which the amount of the damages exceeds the amount paid into court by the defendant as against whom the action has been stayed, and
- (b) the plaintiff shall not be entitled to his costs of the action against the other defendant after the date of the payment into court unless either the amount of the damages awarded to him is greater than the amount paid into court and accepted by him or the judge is of opinion that there was reasonable ground for him to proceed with the action against the other defendant.

(2) Where in an action for libel a party pleads the defence for which section 4 of the Defamation Ordinance (Cap. 21) provides, ~~Order 22, rule 7~~ **Order 22, rule 25**, shall not apply in relation to that pleading.

5. Statement in open court (O. 82, r. 5)

(1) Where a party wishes to accept money paid into court in satisfaction of a cause of action for libel or slander, malicious prosecution or false imprisonment, that party may before or after accepting the money apply to a judge in chambers by summons for leave to make in open court a statement in terms approved by the judge.

(2) Where a party to an action for libel or slander, malicious prosecution or false imprisonment which is settled before trial desires to make a statement in open court, an application must be made to the Court for an order that an action be set down for trial, and before the date fixed for the trial a statement must be submitted for the approval of the judge before whom it is to be made.

(L.N. 404 of 1991)

6. Interrogatories not allowed in certain cases (O. 82, r. 6)

In an action for libel or slander where the defendant pleads that the words or matters complained of are fair comment on a matter of public interest or were

published on a privileged occasion, no interrogatories as to the defendant's sources of information or grounds of belief shall be allowed.

7. Evidence in mitigation of damages (O. 82, r. 7)

In an action for libel or slander in which the defendant does not by his defence assert the truth of the statement complained of, the defendant shall not be entitled on the trial to give evidence in chief, with a view to mitigation of damages, as to the circumstances under which the libel or slander was published, or as to the character of the plaintiff, without the leave of the judge, unless 7 days at least before the trial he furnishes particulars to the plaintiff of the matters as to which he intends to give evidence.

8. Fulfilment of offer of amends under section 25 of the Defamation Ordinance (O. 82, r. 8)

(1) An application to the Court under section 25 of the Defamation Ordinance (Cap. 21) to determine any question as to the steps to be taken in fulfilment of an offer of amends made under that section must, unless the application is made in the course of proceedings for libel or slander in respect of the publication to which the offer relates, be made before a judge in chambers.

(2) An originating summons by which such an application is made shall be in Form No. 10 in Appendix A.

(Enacted 1988)