

# Rules of the High Court (Amendment) Rules 2008

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

### Order 90 – PROCEEDINGS CONCERNING MINORS

Remarks:

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

#### Remarks

#### 3. Application to make a minor a ward of court (O. 90, r. 3)

(1) Where an action to which a minor is a party is proceeding, an application to make that minor a ward of court may be made by summons in the action; ~~but except in that case an application to make a minor a ward of court must be made by originating summons~~ in any other case an application to make a minor a ward of court may be made by originating summons.

Rule 64  
Rec 12

(2) Where there is no person other than the minor who is a suitable defendant, an application may be made ex parte to the Registrar for leave to issue either an ex parte originating summons or an originating summons with the infant as defendant thereto; and, except where such leave is granted, the minor shall not be made a defendant to an originating summons under this rule in the first instance.

(3) Particulars of any summons under this rule shall be recorded in the register of wards.

(3A) The date of the minor's birth shall, unless otherwise directed, be stated in the summons and the plaintiff shall –

- (a) on issuing the summons or before or at the first hearing thereof lodge in the Registry a certified copy of the entry in the birth register book kept under the Births and Deaths Registration Ordinance (Cap. 174) or, as the case may be, in the Adopted Children Register maintained under the Adoption Ordinance (Cap. 290), relating to the minor, or
- (b) at the first hearing of the summons apply for directions as to proof of birth of the minor in some other manner.

(3B) The name of each party to the proceedings shall be qualified by a brief description in the body of the summons, of his interest in, or relationship to, the minor.

(4) Unless the Court otherwise directs, the summons shall state the whereabouts of the minor or, as the case may be, that the plaintiff is unaware of his whereabouts.

(5) Every defendant other than the minor shall, forthwith after being served

with the summons –

- (a) lodge in the Registry a notice stating the address of the defendant and the whereabouts of the minor or, as the case may be, that the defendant is unaware of his whereabouts, and
- (b) unless the Court otherwise directs, serve a copy of the notice on the plaintiff.

(6) Where any party other than the minor changes his address or becomes aware of any change in the whereabouts of the minor after the issue of, as the case may be, service of the summons, he shall, unless the Court otherwise directs, forthwith lodge notice of the change in the Registry and serve a copy of the notice on every other party.

(7) The summons shall contain a notice to the defendant informing him of the requirements of paragraphs (5) and (6).

(8) In this rule any reference to the whereabouts of a minor is a reference to the address at which and the person with whom he is living and any other information relevant to the question where he may be found.

### **3A. Enforcement of order by bailiff (O. 90, r. 3A)**

The power of the Court of First Instance to secure, through an officer attending upon the Court, compliance with any direction relating to a ward of court may be exercised by an order addressed to the bailiff.

(25 of 1998 s. 2)

### **4. When minor ceases to be ward of court (O. 90, r. 4)**

(1) A minor who, by virtue of section 26(2) of the High Court Ordinance, becomes a ward of court on the issue of a summons under rule 3 shall cease to be a ward of court – (25 of 1998 s. 2)

- (a) if an application for an appointment for the hearing of the summons is not made within the period of 21 days after the issue of the summons, at the expiration of that period;
- (b) if an application for such an appointment is made within that period, on the determination of the application made by the summons unless the judge hearing it orders that the minor be made a ward of court.

(2) Nothing in paragraph (1) shall be taken as affecting the power of the Court under section 26(3) of the said Ordinance to order that any minor who is for the time being a ward of court shall cease to be a ward of court.

(3) If no application for an appointment for the hearing of a summons under rule 3 is made within the period of 21 days after the issue of the summons, a notice stating whether the applicant intends to proceed with the application

made by the summons must be left at the Registry immediately after the expiration of that period.

**4B. Hearing of an application to make a minor a ward of Court**

(O. 90, r. 4B)

(HK) An application to make a minor a ward of court may be disposed of in chambers and shall be heard by a judge.

**5. Applications under the Guardianship of Minors Ordinance**

(O. 90, r. 5)

Where there is pending any action or other proceeding by reason of which a minor is a ward of court, any application under the Guardianship of Minors Ordinance (Cap. 13) with respect to that minor may be made by summons in the proceedings, ~~but except in that case any such application must be made by originating summons ; and in any other case any such application may be made by originating summons.~~

Rule 65  
Rec 12

**6. Defendants to summons (O. 90, r. 6)**

(1) Where the minor with respect to whom an application under the Guardianship of Minors Ordinance (Cap. 13) is made is not the plaintiff he shall not, unless the Court otherwise directs, be made a defendant to the summons or, if the application is made by ordinary summons, be served with the summons, but, subject to paragraph (2), any other person appearing to be interested in, or affected by, the application shall be made a defendant or be served with the summons, as the case may be.

(2) The Court may dispense with service of the summons (whether originating or ordinary) on any person and may order it to be served on any person not originally served.

**7. Hearing of applications as to guardianship, maintenance, etc.**

(O. 90, r. 7)

(1) Applications as to the guardianship of minors may be disposed of in chambers and shall be heard by a judge.

(2) Applications as to the maintenance and advancement of any minor may be disposed of in chambers.

**8. Verification and passing of guardians accounts (O. 90, r. 8)**

(HK) A guardian's account must be verified and passed in the same manner as that provided by Order 30 in relation to a receiver's account or in such other manner as the Court may direct.

**10. Removal of guardianship proceedings from the District Court (O. 90, r. 10)**

(1) An application for an order under section 24 of the Guardianship of Minors Ordinance (Cap. 13) for the removal of an application from a District Court into the Court ~~shall be~~ **may be** made by an originating summons and, unless the Court otherwise directs, the summons need not be served on any person.

Rule 66  
Rec 12

(2) The application may be heard by a master, but, if an order is made for the removal to the Court of the application to the District Court, that application shall be heard by a judge.

(HK)(3A) Section 44, subsections (1), (2) (except the proviso) and (4), of the District Court Ordinance (Cap. 336) shall apply to an application ordered to be transferred to the Court under this rule.

(5) The application so removed shall proceed in the Court as if it had been made by originating summons.

**11. Application of Matrimonial Causes Rules (O. 90, r. 11)**

(1) The provisions of the Matrimonial Causes Rules (Cap. 179 sub. leg.) relating to proceedings under section 48 of the Matrimonial Causes Ordinance (Cap. 179) shall apply, with the necessary modifications, to proceedings under sections 13(1), 14 and 15 of the Guardianship of Minors Ordinance (Cap. 13).

(2) The provisions of the Matrimonial Causes Rules (Cap. 179 sub. leg.) relating to the drawing up and service of orders shall apply to proceedings under this Order as if they were proceedings under those rules.

(Enacted 1988)