

The Rules of the District Court (Cap. 336H) highlighted with the major amendments

Note

Please note that in the attached document –

- (a) Proposed provisions are bold-typed and underlined; e.g. “**proposed provisions**”
- (b) Proposed deletion of existing provisions are struck through, e.g. “~~deletion of existing provisions~~”;
- (c) The remarks column indicates-
 - the Recommendation(s) (“Rec”) in the Final Report to which the amendments relate, where relevant; and / or
 - a brief description on the changes made.

Rules of the District Court (Amendment) Rules 2007

The Rules of the District Court (Cap. 336H)

Order 1 - CITATION, ETC., APPLICATION, INTERPRETATION AND FORMS

Remarks

1. Citation (O. 1, r. 1)

(1) These Rules may be cited as the Rules of the District Court.

(2)-(3) (Omitted as spent)

2. Application (O. 1, r. 2)

(1) Subject to this rule, these Rules shall have effect in relation to all proceedings in the Court.

(2) These Rules shall not have effect in relation to proceedings of the kinds specified in column 1 of the following Table (being proceedings in respect of which rules may be made under the enactments specified in column 2 of that Table).

TABLE

	Proceedings	Enactments	
1.	(Repealed L.N. 221 of 2001)		
2.	Adoption proceedings.	Adoption Ordinance (Cap. 290), section 12.	
3.	Proceedings in respect of domestic violence.	Domestic Violence Ordinance (Cap. 189), section 8.	Consequential amendment
4.	(Repealed L.N. 221 of 2001)		
5.	Proceedings under the Business Registration Ordinance (Cap. 310).	Business Registration Ordinance (Cap. 310), section 17.	obsolete
(2A)	These Rules <u>Subject to paragraph (2B), these Rules</u> shall not have effect in relation to-		Consequential amendment
	(a) proceedings under Part III of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7);		
	(b) matrimonial proceedings (except for an appeal against any judgment, order or determination <u>decision</u> of a judge to which		

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Order 58 shall apply);

(ba) Proceedings under the Domestic Violence Ordinance (Cap. 189) in respect of which the rules made under section 8 of that Ordinance apply (except for an appeal against any judgment, order or decision of a judge to which Order 58 shall apply);

Consequential
Amendment

- (c) proceedings-
- (i) for the recovery of employees' compensation; and
 - (ii) in respect of which rules are made under section 50 of the Employees' Compensation Ordinance (Cap. 282). (L.N. 221 of 2001)

(2B) Subject to section 85(1) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7), Order 58 has effect in relation to an appeal against a judgment, order or decision of the Court made under Part III of that Ordinance.

Consequential
Amendment

(3) These Rules shall not have effect in relation to any criminal proceedings other than any criminal proceedings to which Order 62 applies.

(4) In the case of the proceedings mentioned in paragraphs (2), (2A) and (3), nothing in those paragraphs shall be taken as affecting any provision of any rules (whether made under the Ordinance or any other Ordinance) by virtue of which the Rules of the District Court or any provision thereof is applied in relation to any of those proceedings.

3. Application of Interpretation and General Clauses Ordinance (O. 1, r. 3)

The Interpretation and General Clauses Ordinance (Cap. 1) shall apply to the interpretation of these Rules as it applies to subsidiary legislation made after the commencement of that Ordinance.

4. Definitions (O. 1, r. 4)

(1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, namely-

“action for personal injuries” (就人身傷害而提出的訴訟) means an action in which there is a claim for damages in respect of personal injuries to the plaintiff or any other person or in respect of a person’s death, and “personal injuries” (人身傷害) includes any disease and any impairment of a person’s physical or mental condition;

Alignment with RHC

“aided person” () means an aided person within the meaning of the Legal Aid Ordinance (Cap. 91);

“Amendment Rules 2007” () means the Rules of the District Court (Amendment) Rules 2007 (L.N. of 2007);

Rec 11-16

“bailiff” (執達主任) means a bailiff of the High Court and any person lawfully authorized to execute the process of the Court;

“cause book” (訟案登記冊) means the book or any computer record kept in the Registry in which the letter and number of, and other details relating to, a cause or matter are entered;

“judgment rate” (判定利率) means the rate of interest determined by the Chief Justice under section 50(1)(b) of the Ordinance; (18 of 2003 s. 22)

“master” (聆案官) means a master of the Court and includes the Registrar, and deputy and assistant registrars;

“money lender’s action” (放債人訴訟) has the meaning assigned to it by Order 83A;

“notice of intention to defend” (擬抗辯通知書) means an acknowledgment of service containing a statement to the effect that the person by whom or on whose behalf it is signed intends to contest the proceedings to which the acknowledgment relates;

“officer” (人員) means an officer of the Court;

“the Ordinance” (本條例) means the District Court Ordinance (Cap. 336);

“originating summons” (原訴傳票) means every summons other than a summons in a pending cause or matter;

“pleading” (狀書) does not include a summons or preliminary act;

“practice direction” () means –

(a) a direction issued by the Chief Justice as to the practice and procedure of the Court; or

(b) a direction issued by a specialist judge for his specialist list;

Alignment with RHC

“pre-action protocol” () means any code of practice designated as such and approved by a practice direction;

“receiver” (接管人) includes a manager and consignee;

“Registrar” (司法常務官) means the Registrar of the Court; and includes a

deputy registrar or an assistant registrar;

“Registry” (登記處) means the Registry of the Court;

“writ” (令狀) means a writ of summons;

“written law” (成文法) includes “Ordinance” and “enactment” as defined in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1).

(2) In these Rules, unless the context otherwise requires, “the Court” (區域法院) means the District Court or any judge thereof whether sitting in court or in chambers or the Registrar or any master but the foregoing provision shall not be taken as affecting any provision of these Rules and, in particular, Order 32, rule 16 by virtue of which the authority and jurisdiction of the Registrar is defined and regulated.

(3) In these Rules, unless the context otherwise requires, any reference to acknowledging service of a document or giving notice of intention to defend any proceedings is a reference to lodging in the Registry an acknowledgment of service of that document or, as the case may be, a notice of intention to defend those proceedings.

(4) For the purposes of the definition “cause book”, the book kept in the Registry may be in written form or in such other form or medium which can be reproduced in written form.

5. Construction of references to Orders, rules, etc. (O. 1, r. 5)

(1) Unless the context otherwise requires, any reference in these Rules to a specified Order, rule or Appendix is a reference to that Order or rule of, or that Appendix to, these Rules and any reference to a specified rule, paragraph or subparagraph is a reference to that rule of the Order, that paragraph of the rule or that subparagraph of the paragraph in which the reference occurs.

(2) Any reference in these Rules to anything done under a rule of these Rules includes a reference to the same thing done under a rule of these Rules before the commencement of that rule under any corresponding rule of court ceasing to have effect on the commencement of that rule.

(3) Except where the context otherwise requires, any reference in these Rules to any written law shall be construed as a reference to that written law as amended, extended or applied by or under any other written law.

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6. Construction of references to action, etc., for possession of land
(O. 1, r. 6)

Except where the context otherwise requires, references in these Rules to an action or claim for the possession of land shall be construed as including references to proceedings against the Government for an order declaring that the plaintiff is entitled as against the Government to the land or to the possession thereof.

6A. Construction of references to Registrar (O. 1, r. 6A)

Consequential
amendment

Wherever the word “Registrar” appears in these Rules and forms, there may be substituted the word “master” when and where appropriate.

9. Forms (O. 1, r. 9)

The forms in the Appendices shall be used where applicable with such variations as the circumstances of the particular case require.

10. Rules not to exclude conduct of business by post (O. 1, r. 10)

Nothing in these Rules shall prejudice any power to regulate the practice of the Court by giving directions enabling any business or class of business to be conducted by post.

Rules of the District Court (Amendment) Rules 2007

The Rules of the District Court (Cap. 336H)

Remarks

Order 24 - DISCOVERY AND INSPECTION OF DOCUMENTS

Alignment with RHC

1. Mutual discovery of documents (O. 24, r. 1)

(1) After the close of pleadings in an action begun by writ there shall, subject to and in accordance with the provisions of this Order, be discovery by the parties to the action of the documents which are or have been in their possession, custody or power relating to matters in question in the action.

(2) Nothing in this Order shall be taken as preventing the parties to an action agreeing to dispense with or limit the discovery of documents which they would otherwise be required to make to each other.

2. Discovery by parties without order (O. 24, r. 2)

(1) Subject to the provisions of this rule and of rule 4, the parties to an action between whom pleadings are closed shall make discovery by exchanging lists of documents. Accordingly, each party shall, within 14 days after the pleadings in the action are deemed to be closed as between him and any other party, make and serve on that other party a list of the documents which are or have been in his possession, custody or power relating to any matter in question between them in the action.

(2) Without prejudice to any directions given by the Court under Order 16, rule 4, paragraph (1) does not apply in third party proceedings, including proceedings under that Order involving fourth or subsequent parties.

(3) Unless the Court otherwise orders, a defendant to an action arising out of an accident on land due to a collision or apprehended collision involving a vehicle shall not make discovery of any documents to the plaintiff under paragraph (1).

(4) Paragraph (1) shall not be taken as requiring a defendant to an action for the recovery of any penalty recoverable by virtue of any written law to make discovery of any documents.

(5) Paragraphs (3) and (4) apply in relation to a counterclaim as they apply in relation to an action but with the substitution, for the reference in

paragraph (3) to the plaintiff, of a reference to the party making the counterclaim.

(6) On the application of any party required by this rule to make discovery of documents, the Court may -

(a) order that the parties to the action or any of them shall make discovery under paragraph (1) of such documents or classes of documents only, or as to such only of the matters in question, as may be specified in the order; or

(b) if satisfied that discovery by all or any of the parties is not necessary, or not necessary at that stage of the action, order that there shall be no discovery of documents by any or all of the parties either at all or at that stage.

(7) The Court shall make an order under paragraph (6), if and so far as it is of opinion that discovery is not necessary either for disposing fairly of the action or for saving costs.

(8) An application for an order under paragraph (6) must be by summons, and the summons must be taken out before the expiration of the period within which by virtue of this rule discovery of documents in the action is required to be made.

(9) Any party to whom discovery of documents is required to be made under this rule may, at any time before the case management summons in the action is taken out, serve on the party required to make such discovery a notice requiring him to make an affidavit verifying the list he is required to make under paragraph (1).

(10) The party on whom the notice is served shall, within 14 days after service of the notice, make and file an affidavit in compliance with the notice and serve a copy of the affidavit on the party by whom the notice was served.

3. Order for discovery (O. 24, r. 3)

(1) ~~Subject to paragraph (3) and~~ Subject to the provisions of this rule and of rules 4 and 8, the Court may order any party to a cause or matter (whether begun by writ or originating summons or otherwise) to make and serve on any other party a list of the documents which are or have been in his possession, custody or power relating to any matter in question in the cause or matter, and may at the same time or subsequently also order him to make and file an affidavit verifying such a list and to serve a copy thereof on the other party.

(2) Where a party who is required by rule 2 to make discovery of documents fails to comply with any provision of that rule, the Court, on the application of any party to whom the discovery was required to be

made –

- (a) may make an order against the first-mentioned party under paragraph (1); or
- (b) as the case may be, may order him to make and file an affidavit verifying the list of documents he is required to make under rule 2 and to serve a copy thereof on the applicant.

(3) An order under this rule may be limited to such documents or classes of document only, or to such only of the matters in question in the cause or matter, as may be specified in the order.

~~(4) A direction for discovery taking effect under Order 23A, rule 4 or 5, shall be deemed to be an order under this rule.~~

Rec 52-60, 62

4. Order for determination of issue, etc., before discovery (O. 24, r. 4)

(1) Where on an application for an order under ~~rule 3~~ **rule 2 or 3** it appears to the Court that any issue or question in the cause or matter should be determined before any discovery of documents is made by the parties, the Court may order that that issue or question be determined first.

(2) Where in an action begun by writ an order is made under this rule for the determination of an issue or question, ~~Order 23A, rules 9 to 12 and 14, shall apply as if the Court were conducting a directions hearing under that Order.~~
Order 25, rules 5 to 10 –

Rec 52-60, 62

(a) with the omission of so much of rule 10(1) as requires parties to serve a notice specifying the orders and directions which they require; and

(b) with any other necessary modifications,
apply as if the application on which the order was made were a case management summons.

5. Form of list and affidavit (O. 24, r. 5)

(1) A list of documents **made in compliance with rule 2 or with an order under rule 3** must be in Form No. 26 in Appendix A, and must enumerate the documents in a convenient order and as shortly as possible but describing each of them or, in the case of bundles of documents of the same nature, each bundle, sufficiently to enable it to be identified.

(2) If it is ~~claimed~~ **desired to claim** that any documents are privileged from production, the claim must be made in the list of documents with a sufficient statement of the grounds of the privilege.

(3) An affidavit made as aforesaid verifying a list of documents must be in

Form No. 27 in Appendix A.

6. Defendant entitled to copy of co-defendant's list (O. 24, r. 6)

(1) A defendant who has pleaded in an action shall be entitled to have a copy of any list of documents served on the plaintiff by any other defendant to the action; and a plaintiff against whom a counterclaim is made in an action begun by writ shall be entitled to have a copy of any list of documents served under any of those rules on the party making the counterclaim by any other defendant to the counterclaim.

(2) A party required by virtue of paragraph (1) to supply a copy of a list of documents must supply it free of charge on a request made by the party entitled to it.

(3) Where in proceedings begun by originating summons the Court makes an order under rule 3 requiring a defendant to the action to serve a list of documents on the plaintiff, it may also order him to supply any other defendant to the action with a copy of that list.

(4) In this rule "list of documents" (文件清單) includes an affidavit verifying a list of documents.

7. Order for discovery of particular documents (O. 24, r. 7)

(1) Subject to rule 8, the Court may at any time, on the application of any party to a cause or matter, make an order requiring any other party to make an affidavit stating whether any document specified or described in the application or any class of document so specified or described is, or has at any time been, in his possession, custody or power, and, if not then in his possession, custody or power, when he parted with it and what has become of it.

(2) An order may be made against a party under this rule notwithstanding that he may already have made or been required to make a list of documents or affidavit under rule 3.

(3) An application for an order under this rule must be supported by an affidavit stating the belief of the deponent that the party from whom discovery is sought under this rule has, or at some time had in his possession, custody or power the document, or class of document, specified or described in the application and that it relates to one or more of the matters in question in the cause or matter.

7A. Application under section 47A or 47B(1) of the Ordinance

(O. 24, r. 7A)

(1) An application for an order under section 47A of the Ordinance for the disclosure of documents before the commencement of proceedings shall be made by originating summons (in Form No. 10 in Appendix A) and the person against whom the order is sought shall be made defendant to the summons.

(2) An application after the commencement of proceedings for an order under section 47B(1) of the Ordinance for the disclosure of documents by a person who is not a party to the proceedings shall be made by summons, which must be served on that person personally and on every party to the proceedings other than the applicant.

(3) A summons under paragraph (1) or (2) shall be supported by an affidavit which must-

- (a) in the case of a summons under paragraph (1), state the grounds on which it is alleged that the applicant and the person against whom the order is sought are likely to be parties to subsequent proceedings in the Court ~~in which a claim for personal injuries is likely to be made;~~
- (b) in any case, specify or describe the documents in respect of which the order is sought and show, if practicable by reference to any pleading served or intended to be served in the proceedings, that the documents are relevant to an issue arising or likely to arise ~~out of a claim for personal injuries made or likely to be made in the~~ proceedings and that the person against whom the order is sought is likely to have or have had them in his possession, custody or power.

Rec 76 & 79

(3A) In the case of a summons under paragraph (1), paragraph (3)(b) shall be construed as if for the word “relevant” there were substituted the words “directly relevant (within the meaning of section 47A of the Ordinance)”.

(4) A copy of the supporting affidavit shall be served with the summons on every person on whom the summons is required to be served.

(5) An order under section 47A or 47B(1) of the Ordinance for the disclosure of documents may be made conditional on the applicant’s giving security for the costs of the person against whom it is made or on such other terms, if any, as the Court thinks just, and shall require the person against whom the order is made to make an affidavit stating whether any documents specified or described in the order are, or at any time have been, in his possession, custody or power and, if not then in his possession, custody or power, when he parted with them and what has become of them.

(6) No person shall be compelled by virtue of such an order to produce any

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documents which he could not be compelled to produce-

- (a) in the case of a summons under paragraph (1), if the subsequent proceedings had already been begun; or
- (b) in the case of a summons under paragraph (2), if he had been served with a writ of subpoena duces tecum to produce the documents at the trial.

(7) ~~In this rule, “a claim for personal injuries” (就人身傷害提出申索) means a claim for personal injuries or arising out of the death of a person. (L.N. 217 of 2000)~~

Rec 76 & 79

(8) For the purposes of rules 10 and 11 an application for an order under section 47A or 47B(1) of the Ordinance shall be treated as a cause or matter between the applicant and the person against whom the order is sought.

8. Discovery to be ordered only if necessary (O. 24, r. 8)

(1) On the hearing of an application for an order under rule ~~3, 7 or 7A~~ **3 or 7**, the Court, if satisfied that discovery is not necessary, or not necessary at that stage of the cause or matter, may dismiss or, as the case may be, adjourn the application and shall in any case refuse to make such an order if and so far as it is of opinion that discovery is not necessary either for disposing fairly of the cause or matter or for saving costs.

Rec 76 & 79

(2) No order for the disclosure of documents shall be made under section 47A or 47B of the Ordinance, unless the Court is of opinion that the order is necessary either for disposing fairly of the cause or matter or for saving costs.

9. Inspection of documents referred to in list (O. 24, r. 9)

A party who has served a list of documents on any other party, **whether in compliance with rule 2 or with an order under rule 3**, must allow the other party to inspect the documents referred to in the list (other than any which he objects to produce) and to take copies thereof and, accordingly, he must, when he serves the list on the other party, also serve on him a notice stating a time within 7 days after the service thereof at which the said documents may be inspected at a place specified in the notice.

10. Inspection of documents referred to in pleadings and affidavits (O. 24, r. 10)

(1) Any party to a cause or matter shall be entitled at any time to serve a notice on any other party in whose pleadings, affidavits, or witness statements served under Order 38, rule 2A, or experts' reports, reference is made to any

document requiring him to produce that document for the inspection of the party giving the notice and to permit him to take copies thereof.

(2) The party on whom a notice is served under paragraph (1) must, within 4 days after service of the notice, serve on the party giving the notice a notice stating a time within 7 days after the service thereof at which the documents, or such of them as he does not object to produce, may be inspected at a place specified in the notice, and stating which (if any) of the documents he objects to produce and on what grounds.

11. Order for production for inspection (O. 24, r. 11)

(1) If a party who is required by rule 9 to serve such a notice as is therein mentioned or who is served with a notice under rule 10(1)-

- (a) fails to serve a notice under rule 9 or, as the case may be, rule 10(2); or
- (b) objects to produce any document for inspection; or
- (c) offers inspection at a time or place such that, in the opinion of the Court, it is unreasonable to offer inspection then or, as the case may be, there,

then, subject to rule 13(1), the Court may, on the application of the party entitled to inspection, make an order for production of the documents in question for inspection at such time and place, and in such manner, as it thinks fit.

(2) Without prejudice to paragraph (1), but subject to rule 13(1), the Court may, on the application of any party to a cause or matter, order any other party to permit the party applying to inspect any documents in the possession, custody or power of that other party relating to any matter in question in the cause or matter.

(3) An application for an order under paragraph (2) must be supported by an affidavit specifying or describing the documents of which inspection is sought and stating the belief of the deponent that they are in the possession, custody or power of the other party and that they relate to a matter in question in the cause or matter.

11A. Provision of copies of documents (O. 24, r. 11A)

(1) Any party who is entitled to inspect any documents under any provision of this Order or any order made thereunder may, at or before the time when inspection takes place, serve on the party who is required to produce such documents for inspection a notice (which shall contain an undertaking to pay the reasonable charges) requiring him to supply a true copy of any such document as is capable of being copied by photographic or similar process.

(2) The party on whom such a notice is served must, within 7 days after receipt thereof, supply the copy requested together with an account of the reasonable charges.

(3) Where a party fails to supply to another party a copy of any document under paragraph (2), the Court may, on the application of either party, make such order as to the supply of that document as it thinks fit.

12. Order for production to Court (O. 24, r. 12)

At any stage of the proceedings in any cause or matter the Court may, subject to rule 13(1), order any party to produce to the Court any document in his possession, custody or power relating to any matter in question in the cause or matter and the Court may deal with the document when produced in such manner as it thinks fit.

13. Production to be ordered only if necessary, etc. (O. 24, r. 13)

(1) No order for the production of any documents for inspection or to the Court or for the supply of a copy of any document shall be made under any of the foregoing rules unless the Court is of opinion that the order is necessary either for disposing fairly of the cause or matter or for saving costs.

(2) Where, on an application under this Order for production of any document for inspection or to the Court or for the supply of a copy of any document, privilege from such production or supply is claimed or objection is made to such production or supply on any other ground, the Court may inspect the document for the purpose of deciding whether the claim or objection is valid.

14. Production of business books (O. 24, r. 14)

(1) Where production of any business books for inspection is applied for under any of the foregoing rules, the Court may, instead of ordering production of the original books for inspection, order a copy or any entries therein to be supplied and verified by an affidavit of some person who has examined the copy with the original books.

(2) Any such affidavit shall state whether or not there are in the original book any and what erasures, interlineations or alterations.

(3) Notwithstanding that a copy of any entries in any book has been supplied under this rule, the Court may order production of the book from which the copy was made.

14A. Use of documents (O. 24, r. 14A)

Any undertaking, whether express or implied, not to use a document for any purposes other than those of the proceedings in which it is disclosed shall cease to apply to such document after it has been read to or by the Court or referred to in open court, unless the Court for special reasons has otherwise ordered on the application of a party or of the person to whom the document belongs.

15. Document disclosure of which would be injurious to public interest: saving (O. 24, r. 15)

The foregoing provisions of this Order shall be without prejudice to any rule of law which authorizes or requires the withholding of any document on the ground that the disclosure of it would be injurious to the public interest.

15A. Order for limiting discovery (O. 24, r. 15A)

Rec 80

For the purpose of managing the case in question and furthering any of the objectives specified in Order 1A, the Court may make any one or more of the following orders –

- (a) an order limiting the discovery of documents which the parties to the case would otherwise be required to make to each other under rule 1(1);**
- (b) an order directing that the discovery of documents required to be made under this Order to any party to the case shall, notwithstanding anything in this Order, be made in the manner specified in the order; and**
- (c) an order directing that documents which may be inspected under this Order shall, notwithstanding anything in rule 9 or 10, be inspected at a time or times specified in the order.**

16. Failure to comply with requirement for discovery, etc. (O. 24, r. 16)

(1) If any party who is required by ~~any order or direction~~ **any of the foregoing rules, or by any order made thereunder,** to make discovery of documents or to produce any documents for the purpose of inspection or any other purpose or to supply copies thereof fails to comply with ~~that order or direction~~ **any provision of that rule or with that order, as the case may be, then, without prejudice, in the case of a failure to comply with any such provision, to rules 3(2) and 11(1),** the Court may make such order as it thinks just including, in particular, an order that the action be dismissed or, as the case may be, an order that the defence be struck out and judgment be entered accordingly.

(2) If any party against whom an order for discovery or production of

Remarks

documents is made fails to comply with it, then, without prejudice to paragraph (1), he shall be liable to committal.

(3) Service on a party's solicitor of an order for discovery or production of documents made against that party shall be sufficient service to found an application for committal of the party disobeying the order, but the party may show in answer to the application that he had no notice or knowledge of the order.

(4) A solicitor on whom such an order made against his client is served and who fails without reasonable excuse to give notice thereof to his client shall be liable to committal.

17. Transitional provision relating to rules 1 and 2 (O. 24, r. 17)

Transitional

(1) Where before the commencement of rule 2, the pleadings in an action are deemed to have been closed, rule 2(1) has effect as if for the words "within 14 days after the pleadings in the action are deemed to be closed as between him and any other party", there were substituted the words "within 14 days of the commencement of this rule".

(2) Rules 1 and 2 and paragraph (1) has effect subject to –
(a) any direction relating to discovery of documents given by the Court before the commencement of those rules; and
(b) any memorandum filed under Order 23A, rule 4 ("the repealed rule") repealed by rule 69 of the Amendment Rules 2007 which sets out the directions and orders agreed between the parties and taking effect under the repealed rule.

Rules of the District Court (Amendment) Rules 2007

The Rules of the District Court (Cap. 336H)

Order 25 - CASE MANAGEMENT SUMMONS AND CONFERENCE

Remarks

1. Case management summons and conference (O. 25, r. 1)

Rec 52-60, 62

(1) For the purpose of facilitating the giving of directions for the management of a case, each party shall, within 28 days after the pleadings in an action to which this rule applies are deemed to be closed –

- (a) complete a questionnaire prescribed in a practice direction issued for that purpose by providing the information requested in the manner specified in the questionnaire; and
- (b) serve it on all other parties and file it with the Court in the manner specified in the practice direction.

(2) Where, upon completion of the questionnaire, the parties are able to reach an agreement on –

- (a) the directions relating to the management of the case which they wish the Court to make; or
- (b) a timetable for the steps to be taken between the giving of those directions and the trial,

they shall file with the Court a consent summons to that effect.

(3) Where there is no agreement on any of the matters specified in paragraph (2)(a) and (b) –

- (a) each party shall in the questionnaire make a proposal on the matter; and
- (b) the plaintiff shall, within the period specified in the practice direction, take out a summons (in these Rules referred to as a case management summons) returnable in not less than 14 days, so that the Court may give directions relating to the management of the case.

(4) This rule applies to all actions begun by writ except -

- (a) actions in which the plaintiff or defendant has applied for judgment under Order 14, or in which the plaintiff has applied for judgment under Order 86, and directions have been given under the relevant Order;
- (b) actions in which the plaintiff or defendant has applied under Order 18, rule 21, for trial without pleadings or further pleadings and directions have been given under that rule;
- (c) actions in which an order has been made under Order 24, rule 4, for the trial of an issue or question before discovery;
- (d) actions in which directions have been given under Order 29, rule 7;

- (e) actions in which an order for the taking of an account has been made under Order 43, rule 1;
- (f) actions in which an application for transfer to the commercial list is pending;
- (g) actions for the infringement of a patent; and
- (h) actions for personal injuries for which automatic directions are provided by rule 11.

(5) If the plaintiff does not file the questionnaire in accordance with paragraph (1)(b) or take out a case management summons in accordance with paragraph (3)(b), the defendant or any defendant may –

- (a) take out a case management summons; or
- (b) apply for an order to dismiss the action.

(6) On an application by a defendant to dismiss the action under paragraph (5), the Court may either dismiss the action on such terms as may be just or deal with the application as if it were a case management summons.

(7) In the case of an action which is proceeding only as respects a counterclaim, references in this rule and rule 2(1)(c) to the plaintiff and defendant shall be construed respectively as references to the party making the counterclaim and the defendant to the counterclaim.

(8) Notwithstanding anything in paragraph (3), any party to an action to which this rule applies may take out a case management summons at any time after the defendant has given notice of intention to defend, or, if there are two or more defendants, at least one of them has given such notice.

2. Case management timetable (O. 25, r. 2)

(1) Subject to paragraph (4), as soon as practicable after the completed questionnaire has been filed with the Court, the Court shall, having regard to the questionnaire and the needs of the case –

- (a) give directions relating to the management of the case and fix the timetable for the steps to be taken between the giving of those directions and the trial;
- (b) fix a case management conference if the Court is of the opinion that it is desirable to do so; or
- (c) direct the plaintiff to take out a case management summons if he has not already done so under rule 1(3)(b).

(2) Where the Court has fixed a case management conference, it shall –

- (a) give directions relating to the management of the case and fix the timetable for the steps to be taken between the giving of those directions and the date of the case management conference; and

(b) during the case management conference, fix a timetable for the steps to be taken between the date of the conference and the date of the trial, including –
(i) a date for a pre-trial review; or
(ii) the trial date or the period in which the trial is to take place.

(3) Where the Court has not fixed a case management conference, any timetable fixed under paragraph (1)(a) may include –
(a) a date for a pre-trial review; and
(b) the trial date or the period in which the trial is to take place.

(4) The Court may, without a hearing of the case management summons and having regard to the completed questionnaire, by an order nisi, give directions relating to the management of the case and fix the timetable for the steps to be taken between the giving of those directions and the trial.

(5) The order nisi shall become absolute 14 days after the order is made unless a party has applied to the Court for not making the order absolute.

(6) The Court shall, on an application made under paragraph (5), hear the case management summons.

3. Variation of case management timetable (O. 25, r. 3)

(1) The Court may, either of its own motion or on the application of a party, give further directions relating to the management of the case or vary any timetable fixed by it under rule 2.

(2) A party shall apply to the Court if he wishes to vary a milestone date.

(3) A non-milestone date may be varied by filing with the Court a consent summons to that effect.

(4) A party shall apply to the Court if he wishes to vary a non-milestone date without the agreement of the other parties.

(5) The Court shall not grant an application under paragraph (4) unless sufficient grounds have been shown to it.

(6) Whether or not sufficient grounds have been shown to it, the Court shall not grant an application under paragraph (4) if the variation would make it necessary to change a trial date or a trial period.

(7) In this rule –

“milestone date” () means –

- (a) a date which the Court has fixed for –
 - (i) a case management conference;
 - (ii) a pre-trial review; or
 - (iii) the trial; or
- (b) a trial period fixed by the Court;

“non-milestone date” () means a date or period fixed by the Court, other than a date or period specified in the definition of “milestone date”.

4. Failure to appear at case management conference or pre-trial review (O. 25, r. 4)

(1) Where the plaintiff does not appear at the case management conference or pre-trial review, the Court shall provisionally strike out the action.

(2) Where the Court has provisionally struck out an action under paragraph (1), the plaintiff may, before the expiry of 3 months from the date of the case management conference or pre-trial review, as the case may be, apply to the Court for restoration of the action.

(3) The Court may restore the action subject to such conditions as it thinks fit or refuse to restore the action.

(4) The Court shall not restore the action unless good reasons have been shown to the satisfaction of the Court.

(5) If the plaintiff does not apply under paragraph (2) or his application under that paragraph is refused –

- (a) the action shall stand dismissed upon the expiry of 3 months from the date of the case management conference or pre-trial review, as the case may be; and
- (b) the defendant shall be entitled to his costs of the action.

(6) If the plaintiff does not apply for restoration of the action under paragraph (2) or his application under that paragraph is refused, and the defendant has made a counterclaim in the action, the defendant may, before the expiry of 3 months from the latest date on which the plaintiff may apply for restoration of the action, apply for restoration of his counterclaim.

(7) If the defendant does not apply for restoration of his counterclaim under paragraph (6) or his application under that paragraph is refused, the defendant’s counterclaim shall stand dismissed with no order as to costs.

5. Duty to consider all matters (O. 25, r. 5)

(1) When the case management summons first comes to be determined, the Court shall consider whether -

- (a) it is possible to deal then with all the matters which, by the rules of this Order, are required to be considered at the case management summons; or
- (b) it is expedient to adjourn the consideration of all or any of those matters until a later stage.

(2) If when the case management summons first comes to be determined, the Court considers that it is possible to deal then with all the matters referred to in paragraph (1), it shall –

- (a) deal with them forthwith; and
- (b) endeavour to secure that all other matters which must or can be dealt with on interlocutory applications and have not already been dealt with are also then dealt with.

(3) If, when the case management summons first comes to be determined, the Court considers that it is expedient to adjourn the consideration of all or any of the matters which, by the rules of this Order, are required to be considered at the case management summons, the Court shall –

- (a) deal forthwith with such of those matters as it considers can conveniently be dealt with forthwith and adjourn the consideration of the remaining matters; and
- (b) endeavour to secure that all other matters which must or can be dealt with on interlocutory applications and have not already been dealt with are dealt with either then or at such time as the Court may specify.

(4) Subject to paragraph (5), and except where the parties agree to the making of an order under Order 33 as to the place or mode of trial before all the matters which, by the rules of this Order, are required to be considered at the case management summons have been dealt with, no such order shall be made until all those matters have been dealt with.

(5) If, at the determination of the case management summons, an action is ordered to be transferred to the Court of First Instance or some other court, paragraph (4) does not apply and nothing in this Order shall be construed as requiring the Court to make any further order at the case management summons.

(6) If the determination of the case management summons is adjourned without a day being fixed for its resumption, any party may restore the summons to the list on 2 days' notice to the other parties.

6. Particular matters for consideration (O. 25, r. 6)

At the determination of the case management summons, the Court shall in particular consider, if necessary of its own motion, whether any order should be made or direction given in the exercise of the powers conferred by any of the following provisions, that is to say -

- (a) any provision of Part IV and Part V of the Evidence Ordinance (Cap. 8) (hearsay evidence of fact or opinion in civil proceedings) or of Part III and Part IV of Order 38;**
- (b) Order 20, rule 5 and Order 38, rules 2 to 7;**
- (c) sections 41 and 42 of the Ordinance.**

7. Admissions and agreements to be made (O. 25, r. 7)

At the determination of the case management summons, the Court –

- (a) shall endeavour to secure that the parties make all admissions and all agreements as to the conduct of the proceedings which ought reasonably to be made by them; and**
- (b) may cause the order on the summons to record –**
 - (i) any admissions or agreements so made; and**
 - (ii) (with a view to such special order, if any, as to costs as may be just being made at the trial) any refusal to make any admission or agreement.**

8. Limitation of right of appeal (O. 25, r. 8)

Nothing in rule 7 shall be construed as requiring the Court to endeavour to secure that the parties shall agree to exclude or limit any right of appeal, but the order made on the case management summons may record any such agreement.

9. Duty to give all information at determination of case management summons (O. 25, r. 9)

- (1) Subject to paragraph (5), no affidavit shall be used at the determination of the case management summons except by the leave or directions of the Court.**
- (2) Subject to paragraph (7), it is the duty of the parties to the action and their advisers to give all such information and produce all such documents as the Court may reasonably require for the purposes of enabling it properly to deal with the summons.**
- (3) The Court may, if it appears proper so to do in the circumstances, authorize any such information or documents to be given or produced to the Court without being disclosed to the other parties.**

(4) In the absence of such authority, any information or document given or produced under paragraph (2) shall be given or produced to all the parties as well as to the Court.

(5) No leave is required by virtue of paragraph (1) for the use of an affidavit by any party at the determination of the case management summons in connection with any application thereat for any order if, under any of these Rules, an application for such an order is required to be supported by an affidavit.

(6) If the Court at the determination of the case management summons requires a party to the action or his solicitor or counsel to give any information or produce any document and that information or document is not given or produced, then, subject to paragraph (7), the Court may -

- (a) cause the facts to be recorded in the order with a view to such special order, if any, as to costs as may be just being made at the trial; or
- (b) if it appears to the Court to be just so to do –
 - (i) order the whole or any part of the pleadings of the party concerned to be struck out; or
 - (ii) if the party is plaintiff or the claimant under a counterclaim, order the action or counterclaim to be dismissed on such terms as may be just.

(7) Notwithstanding anything in this rule, no information or documents which are privileged from disclosure is required to be given or produced under this rule by or by the advisers of any party otherwise than with the consent of that party.

10. Duty to make all interlocutory applications at case management summons (O. 25, r. 10)

(1) Any party to whom the case management summons is addressed must –

- (a) so far as practicable apply at the time fixed for determination of the summons for any order or directions which he may desire as to any matter capable of being dealt with on an interlocutory application in the action; and
- (b) not less than 7 days before the time fixed for determination of the summons, serve on the other parties a notice specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons.

(2) If –

- (a) the determination of the case management summons is adjourned; and

(b) any party to the proceedings desires to apply for any order or directions not asked for by the summons or in any notice given under paragraph (1),

he must, not less than 7 days before the resumption of the determination of the summons, serve on the other parties a notice specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons or in any notice given under paragraph (1).

(3) Any application subsequent to the case management summons and before judgment as to any matter capable of being dealt with on an interlocutory application in the action must be made under the summons by 2 clear days' notice to the other party stating the grounds of the application.

11. Automatic directions in personal injury actions (O. 25, r. 11)

(1) When the pleadings in any action to which this rule applies are deemed to be closed, the following directions take effect automatically -

- (a) there shall be discovery of documents within 14 days in accordance with Order 24, rule 2, and inspection within 7 days thereafter, save that where liability is admitted, or where the action arises out of a road accident, discovery shall be limited to disclosure by the plaintiff of any documents relating to special damages;
- (b) subject to paragraph (2), where any party intends to place reliance at the trial on expert evidence, he shall, within 6 weeks, disclose the substance of that evidence to the other parties in the form of a written report, which shall be agreed if possible;
- (c) unless such reports are agreed, the parties are at liberty to call as expert witnesses those witnesses the substance of whose evidence has been disclosed in accordance with subparagraph (b), except that the number of expert witnesses shall be limited in any case to two medical experts and one expert of any other kind;
- (d) photographs, a sketch plan and the contents of any police accident report shall be receivable in evidence at the trial and shall be agreed if possible;
- (e) the record of any proceedings in any court or tribunal shall be receivable in evidence upon production of a copy thereof certified as a true copy by the clerk or other appropriate officer of the court or tribunal.

(2) Where paragraph (1)(b) applies to more than one party, the reports shall be disclosed by mutual exchange, medical for medical and non-medical for non-medical, within the time provided or as soon thereafter as the reports on each side are available.

(3) Nothing in paragraph (1) –

- (a) prevents any party to an action to which this rule applies from applying to the Court for such further or different directions or orders as may, in the circumstances, be appropriate; or
- (b) prevents the making of an order for the transfer of the proceedings to the Court of First Instance.

(4) For the purpose of this rule –

“a road accident” (道路意外) means an accident on land due to a collision or apprehended collision involving a vehicle;

“documents relating to special damages” (關於專項損害賠償的文件) include -

- (a) documents relating to any industrial injury, industrial disablement or sickness benefit rights; and
- (b) where the claim is made under the Fatal Accidents Ordinance (Cap. 22), documents relating to any claim for dependency on the deceased.

(5) This rule applies to any action for personal injuries except -

- (a) any Admiralty action; and
- (b) any action where the pleadings contain an allegation of a negligent act or omission in the course of medical treatment.

12. Application to action in specialist list (O. 25, r. 12)

Notwithstanding anything in this Order, a specialist judge may, by a practice direction, determine the extent to which this Order is to apply to an action in a specialist list.

13. Transitional (DC)

(1) Where immediately before the commencement of this Order, a summons for directions taken out under rule 7 of the repealed Order 23A is pending, then the summons for directions is deemed to be –

- (a) if it was taken out by the plaintiff, a case management summons taken out under rule 1(3)(b); or
- (b) if it was taken out by the defendant, a case management summons taken out under rule 1(5)(a).

(2) Where before the commencement of this Order –

- (a) the Court has given a direction requiring the plaintiff to apply for a pre-trial review under the repealed Order 34 or a memorandum setting out such a direction has been filed under rule 4 of the repealed Order 23A; and

(b) the plaintiff has not made the application in accordance with the direction, then the direction is deemed to be a direction requiring the plaintiff to take out a case management summons under rule 1(3)(b).

(3) Where immediately before the commencement of this Order, an application for a pre-trial review made under the repealed Order 34 is pending, then the application is deemed to be a case management summons taken out under this Order, irrespective of whether a notice in response has been filed under the repealed Order 34.

(4) Where before the commencement of this Order, the pleadings in an action to which this rule applies are deemed to have been closed and paragraphs (1), (2) and (3) are not applicable, then rule 1(1) has effect as if for the words “the pleadings in an action to which this rule applies are deemed to be closed”, there were substituted the words “the commencement of this Order”.

(5) In this rule –

“repealed Order 23A” () means Order 23A repealed by rule 69 of the Amendment Rules 2007;

“repealed Order 34” () means Order 34 repealed by rule 140 of the Amendment Rules 2007.

Rules of the District Court (Amendment) Rules 2007

The Rules of the District Court (Cap. 336H)

~~Order 34 – PRE-TRIAL REVIEW AND FIXING DATE FOR TRIAL OF ACTIONS BEGUN BY WRIT~~

Remarks

~~1. Application and interpretation (O. 34, r. 1)~~

Alignment with
RHC

~~(1) This Order applies to all actions begun by writ.~~

~~(2) In this Order-~~

~~“notice of application” (申請通知書) means a notice under rule 3 applying for a pre-trial review;~~

~~“notice in response” (回應通知書) means a notice under rule 4 responding to a notice of application;~~

~~“pre-trial review” (審訊前的覆核) means a pre-trial review under rule 7.~~

~~2. Plaintiff’s default in applying for pre-trial review (O. 34, r. 2)~~

~~—Where the plaintiff fails to apply for a pre-trial review within the period fixed by a direction made or taking effect under Order 23A, rule 4, 5 or 9, or otherwise, any defendant may apply for a pre-trial review or may apply to the Court to dismiss the action for want of prosecution and, on the hearing of any such application, the Court may order the action to be dismissed or may make such order as it thinks just.~~

~~3. Application for pre-trial review (O. 34, r. 3)~~

~~(1) Except where the Court otherwise allows, an application for a pre-trial review shall be made by a notice of application filed in the Registry which must be served on all the other parties within 2 days of the date of filing.~~

~~(2) A notice of application shall state-~~

~~—(a) whether all the directions or orders which have been made or have taken effect in the action have been fully complied with and, if not, which of them have not been complied with and in what respects there has been non-compliance;~~

~~—(b) whether the applicant desires any further direction or order for the future course of the action and, if so, what further direction or order he desires;~~

~~—(c) whether the applicant intends to call any witnesses other than expert~~

witnesses, and, if so—

- ~~———— (i) how many witnesses will be called and in what language each of them will give his evidence; and~~
- ~~———— (ii) where no order has been made for the exchange of witness statements under Order 38, rule 2A, whether there is any and if so what good reason for there to be no such order;~~
- ~~—— (d) where any party has served an expert's report pursuant to any direction therefor, whether the report has been agreed, and, if not, what steps have been taken to secure such agreement;~~
- ~~—— (e) the applicant's estimate of the length of trial;~~
- ~~—— (f) whether the applicant contends that it is appropriate in all the circumstances to fix a date for trial and, if not, why not; and~~
- ~~—— (g) any other matters which the applicant considers to be material for the pre trial review.~~

~~(3) Where a notice of application states that a further direction or order is desired, the notice shall be treated for the purposes of these Rules as a summons for the further direction or order specified in the notice.~~

~~(4) The applicant shall, when filing the notice of application, lodge in the Registry a bundle of all the documents (if any) which are material to the pre-trial review and have not been filed in the Registry, including any experts' reports and any material correspondence between the parties, and the applicant shall serve written notice of the lodging of all such documents to all the other parties at the same time as he serves the notice of application.~~

~~4. Duty of parties on whom notice of application is served (O. 34, r. 4)~~

~~(1) Every party whom a notice of application is served shall, within 14 days after service thereof, file in the Registry and, within 2 days thereafter, serve on all the other parties, a notice in response.~~

~~(2) Rule 3(2) and (3) shall apply to a notice in response, with the modifications that the expressions "notice of application" and "the applicant" shall be taken to refer to a notice in response and the party issuing such a notice.~~

~~5. Default by party on whom notice of application is served (O. 34, r. 5)~~

~~—— Where a party on whom a notice of application is served fails to serve a notice of response within the period fixed under rule 4(1) or such further time as may be agreed between all the parties or allowed by the Court, the applicant for a pre trial review may apply to the Court to dismiss the action or strike out the defence, as the case may be, and, on the hearing of any such application, the Court may order the action to be dismissed or the defence struck out as the case may be and judgment to be entered accordingly or may make such other order as it thinks just.~~

6. — Circumstances in which an oral hearing of a pre-trial review to take place (O. 34, r. 6)

~~(1) The Court shall conduct a pre-trial review without an oral hearing except where—~~

- ~~— (a) the Court orders an oral hearing of its own motion; or~~
- ~~— (b) within 7 days after the filing of a notice in response (or, if there is more than one notice in response, the date of the filing of the notice in response last filed) any of the parties, by written notice to the Registrar and all the other parties, requests an oral hearing.~~

~~(2) Where a pre-trial review is conducted without an oral hearing, any party may, within 7 days after the expiry of the period of notice referred to in paragraph (1)(b), make representations in writing to the Court and the Court shall conduct the pre-trial review as soon as practicable thereafter.~~

7. — Pre-trial review (O. 34, r. 7)

~~(1) At the pre-trial review, if the Court is satisfied that the action is ready for trial, the Court shall grant leave for the action to be set down or fix a date for trial and specify the place and mode of trial.~~

~~(2) At the pre-trial review, if the Court is not satisfied that the action is ready for trial, the Court shall—~~

- ~~— (a) give all such directions and make all such orders as are required in order to get the action ready for trial; and~~
- ~~— (b) adjourn the pre-trial review to a fixed date and on that date proceed in accordance with paragraph (1) or this paragraph.~~

~~(3) In exercising its powers under paragraph (2)(a), Order 23A, rules 9 to 12 and 14, shall apply as if the pre-trial review were a directions hearing under that Order.—~~

8. — Costs (O. 34, r. 8)

~~(1) If, at a pre-trial review, the Court is of the opinion that a party acted unreasonably in requesting an oral hearing of the pre-trial review, the Court may order that party to pay all the costs wasted by his unreasonableness, including the cost of the oral hearing.~~

~~(2) If, at a pre-trial review, the Court is of the opinion that the action is not ready for trial because of the failure by any party to comply with any direction or order, the Court may order that party to pay the costs of the pre-trial review and make such other order as to costs as the Court thinks fit having regard to the failure of that party to comply with the direction or order.~~

9. ~~Abatement, etc., of action (O. 34, r. 9)~~

~~(1) Where after a pre-trial review the action becomes abated, or the interest or liability of any party to the action is assigned or transmitted to or devolves on some other person, the solicitor for the plaintiff or other party having the conduct of the action must, as soon as practicable after becoming aware of it, certify the abatement or change of interest or liability and send the certificate to the Registrar who shall cause the appropriate entry to be made in the list of actions set down for trial.~~

~~(2) Where in any such list an action stands for one year marked as abated or ordered to stand over generally, the action shall on the expiration of that year be struck out of the list unless, in the case of an action ordered to stand over generally, the order otherwise provides.~~

**ORDER 34 - SETTING DOWN FOR TRIAL ACTION
BEGUN BY WRIT**

1. Application and interpretation (O. 34, r. 1)

This Order applies to actions begun by writ and, accordingly, references in this Order to an action shall be construed as references to an action so begun.

2. Time for setting down action (O. 34, r. 2)

(1) An order made in an action which provides for trial before a judge shall fix a period within which the plaintiff is to set down the action for trial.

(2) Where the plaintiff does not, within the period fixed under paragraph (1), set the action down for trial, the defendant may –
(a) set the action down for trial; or
(b) apply to the Court to dismiss the action for want of prosecution.

(3) On the hearing of an application made under paragraph (2)(b), the Court may order the action to be dismissed accordingly or may make such order as it thinks just.

(4) An order made in an action which provides for trial before a judge (otherwise than in the commercial list or in any list which may be specified for the purposes of this paragraph by directions under rule 4) shall –
(a) contain an estimate of the length of the trial; and
(b) subject to any such directions, specify the list in which the action is to be put.

3. Lodging documents when setting down (O. 34, r. 3)

(1) In order to set down for trial an action which is to be tried before a judge, the party setting it down shall deliver to the Registrar, by post or otherwise, a request that the action may be set down for trial, together with a bundle (for the use of the judge) consisting of one copy each of the following documents that is to say -

(a) the writ;

(b) the pleadings (including any affidavits ordered to stand as pleadings), any request or order for particulars and the particulars given;

(c) all orders made -

(i) pursuant to the questionnaire completed in accordance with Order 25, rule 1(1);

(ii) pursuant to a case management summons; and

(iii) at a case management conference or a pre-trial review;

(d) the requisite legal aid documents, if any; and

(e) all witness statements served under the provisions of Order 38, rule 2A.

(2) The bundle must be bound up in the proper chronological order, save that voluntary particulars of any pleading and particulars to which Order 18, rule 12(7) applies shall be placed immediately after the pleading to which they relate.

(3) In this rule “the requisite legal aid documents” (必需的法律援助文件) means any documents which are required to be filed in the Registry under the Legal Aid Ordinance (Cap. 91) or the regulations made thereunder.

4. Directions relating to lists (O. 34, r. 4)

Nothing in this Order shall prejudice any powers of the Chief Justice to give directions -

(a) specifying the lists in which actions, or actions of any class or description, are to be set down for trial and providing for the keeping and publication of the lists;

(b) providing for the determination of a date for the trial of any action which has been set down or a date before which the trial thereof is not to take place; and

(c) as to the making of applications (whether to the Court or an officer of the Court) to fix, vacate or alter any such date, and, in particular, requiring any such application to be supported by an estimate of the length of the trial and any other relevant information.

5. Notification of setting down (O. 34, r. 5)

- (1) A party to an action who sets it down for trial must, within 24 hours after doing so, notify the other parties to the action that he has done so.
- (2) It is the duty of all parties to an action entered in any list to –
- (a) furnish without delay to the officer who keeps the list all available information as to the action being or being likely to be settled, or affecting the estimated length of the trial; and
 - (b) if the action is settled or withdrawn, notify that officer of the fact without delay and take such steps as may be necessary to withdraw the record.
- (3) In performance of the duty imposed by paragraph (2), a party who gives notice of acceptance of a sanctioned payment or a sanctioned offer in accordance with Order 22, shall at the same time lodge a copy of the notice with the officer mentioned in that paragraph.

6. Abatement, etc., of action (O. 34, r. 6)

- (1) Where after an action has been set down for trial the action becomes abated, or the interest or liability of any party to the action is assigned or transmitted to or devolves on some other person, the solicitor for the plaintiff or other party having the conduct of the action must, as soon as practicable after becoming aware of it –
- (a) certify the abatement or change of interest or liability; and
 - (b) send the certificate to the officer who keeps the list.
- (2) That officer shall cause the appropriate entry to be made in the list of actions set down for trial.
- (3) Where in any such list an action stands for one year marked as abated or ordered to stand over generally, the action shall on the expiration of that year be struck out of the list unless, in the case of an action ordered to stand over generally, the order otherwise provides.

Rules of the District Court (Amendment) Rules 2007

The Rules of the District Court (Cap. 336H)

Order 37 - DAMAGES: ASSESSMENT AFTER JUDGMENT AND ORDERS FOR PROVISIONAL DAMAGES

Remarks

I. ASSESSMENT OF DAMAGES AFTER JUDGMENT

1. Assessment of damages (O. 37, r. 1)

(1) Where judgment is given for damages to be assessed and no provision is made by the judgment as to how they are to be assessed, the damages shall, subject to the provisions of this Order, be assessed by a judge, ~~or, if the parties consent, by a master~~ **or master as directed by the Court**, and the party entitled to the benefit of the judgment may, after obtaining the necessary appointment and, at least 7 days before the date of the appointment, serving notice of the appointment on the party against whom the judgment is given, proceed accordingly.

Alignment with RHC

~~(1A) Upon application to obtain an appointment for an assessment of damages being made, the directions set out in Order 23A, rule 5(1)(a) to (e), (2) and (3), shall, unless the Court otherwise directs, take effect automatically.~~

(1A) Upon judgment being given for damages to be assessed, the following directions shall, unless the Court directs otherwise, take effect automatically -

Alignment with RHC

- (a) there shall be discovery of documents within 14 days in accordance with Order 24, rule 2, and inspection within 7 days thereafter in accordance with Order 24, rule 9;**
- (b) subject to subparagraph (c), where any party intends to place reliance at the hearing on expert evidence, he shall, within 21 days after the time for inspection of documents has expired under subparagraph (a), disclose the substance of that evidence to the other parties in the form of a written report, which shall be agreed if possible;**
- (c) where subparagraph (b) applies to more than one party, the reports shall be disclosed by mutual exchange within the time provided;**
- (d) unless such reports are agreed, the parties are at liberty to call as expert witnesses those witnesses the substance of whose evidence has been disclosed in accordance with the preceding subparagraph, except that the number of expert witnesses shall be limited in any case to two medical experts and one expert of any other kind;**

- (e) photographs, plans and the contents of any police investigation report shall be receivable in evidence at the hearing and shall be agreed if possible;**
- (f) the record of any proceedings in any court or tribunal shall be receivable in evidence upon production of a copy thereof certified as a true copy by the clerk or other appropriate officer of the court or tribunal;**
- (g) at the time of making of the application for an appointment, the master shall be notified of the estimated length of the assessment and any other matter which may affect the setting down of the assessment.**

(2) Notwithstanding anything in Order 65, rule 9, a notice under this rule must be served on the party against whom the judgment is given.

(3) The attendance of witnesses and the production of documents in proceedings under this Order may be compelled by writ of subpoena, and the provisions of Order 35 shall, with the necessary adaptations, apply in relation to those proceedings as they apply in relation to proceedings at a trial.

1A. Assessment of costs as damages (O. 37, r. 1A)

Where damages to be assessed pursuant to a judgment to which this Order applies consist solely of costs claimed on an indemnity basis, such assessment shall proceed as for a taxation of costs under Order 62 and the provisions of that Order shall apply as if an order for taxation of costs on the indemnity basis had been made.

2. Certificate of amount of damages (O. 37, r. 2)

Where in pursuance of this Order or otherwise damages are assessed, the judge or master hearing the assessment shall certify the amount of the damages and the certificate shall, when judgment is entered, be filed in the Registry.

3. Default judgment against some but not all defendants (O. 37, r. 3)

Where any such judgment as is mentioned in rule 1 is given on failure to give notice of intention to defend or in default of defence, and the action proceeds against other defendants, the damages under the judgment shall be assessed at the trial unless the Court otherwise orders.

4. Power to order assessment at trial (O. 37, r. 4)

(1) Where judgement is given for damages to be assessed, the Court may

Consequential
amendment

order that the action shall proceed to trial before a judge as respects the damages.

(2) Where the Court orders that the action shall proceed to trial, Order 25, rules 5 to 10 –

(a) with the omission of so much of rule 10(1) as requires the parties to serve a notice specifying the orders and directions which they desire; and

(b) with any other necessary modifications, apply as if the application to the Court in pursuance of which the Court makes the order, were a case management summons under Order 25.

5. Assessment of value (O. 37, r. 5)

The foregoing provisions of this Order shall apply in relation to a judgment for the value of goods to be assessed, with or without damages to be assessed, as they apply to a judgment for damages to be assessed, and references in those provisions to the assessment of damages shall be construed accordingly.

6. Assessment of damages to time of assessment (O. 37, r. 6)

Where damages are to be assessed (whether under this Order or otherwise) in respect of any continuing cause of action, they shall be assessed down to the time of the assessment.

II. ORDERS FOR PROVISIONAL DAMAGES FOR PERSONAL INJURIES

7. Application and interpretation (O. 37, r. 7)

(1) This Part of this Order applies to actions to which section 72E of the Ordinance (in this Part of this Order referred to as “section 72E”) applies.

(2) In this Part of this Order “award of provisional damages” (暫定損害賠償裁決) means an award of damages for personal injuries under which-

(a) damages are assessed on the assumption that the injured person will not develop the disease or suffer the deterioration referred to in section 72E; and

(b) the injured person is entitled to apply for further damages at a future date if he develops the disease or suffers the deterioration.

8. Order for provisional damages (O. 37, r. 8)

- (1) The Court may on such terms as it thinks just and subject to the provisions of this rule make an award of provisional damages if-
 - (a) the plaintiff has pleaded a claim for provisional damages; and
 - (b) the Court is satisfied that the action is one to which section 72E applies.
- (2) An order for an award of provisional damages shall specify the disease or type of deterioration in respect of which an application may be made at a future date, and shall also, unless the Court otherwise determines, specify the period within which such application may be made.
- (3) The Court may, on the application of the plaintiff made within the period, if any, specified in paragraph (2), by order extend that period if it thinks it just to do so, and the plaintiff may make more than one such application.
- (4) An order for an award of provisional damages may be made in respect of more than one disease or type of deterioration and may in respect of each disease or type of deterioration specify a different period within which an application may be made at a future date.
- (5) Orders 13 and 19 shall not apply in relation to an action in which the plaintiff claims provisional damages.

9. Offer to submit to an award (O. 37, r. 9)

- (1) Where an application is made for an award of provisional damages, any defendant may at any time (whether or not he makes a payment into court) make a written offer to the plaintiff-
 - (a) to tender a sum of money (which may include an amount, to be specified, in respect of interest) in satisfaction of the plaintiff's claim for damages assessed on the assumption that the injured person will not develop the disease or suffer the deterioration referred to in section 72E and identifying the disease or deterioration in question; and
 - (b) to agree to the making of an award of provisional damages.
- (2) Any offer made under paragraph (1) shall not be brought to the attention of the Court until after the Court has determined the claim for an award of provisional damages.
- (3) Where an offer is made under paragraph (1), the plaintiff may, within 21 days after receipt of the offer, give written notice to the defendant of his acceptance of the offer and shall on such acceptance make an application to the Court for an order in accordance with the provisions of rule 8(2).

Remarks

10. Application for award of further damages (O. 37, r. 10)

(1) This rule applies where the plaintiff, pursuant to an award of provisional damages, claims further damages.

(2) No application for further damages may be made after the expiration of the period, if any, specified under rule 8(2), or of such period as extended under rule 8(3).

(3) The plaintiff shall give not less than 3 months' written notice to the defendant of his intention to apply for further damages and, if the defendant is to the plaintiff's knowledge insured in respect of the plaintiff's claim, to the insurers.

(4) The plaintiff must, within 21 days after the expiration of the period of notice referred to in paragraph (3), take out a ~~summons for directions under Order 23A, rule 7,~~ **case management summons** as to the future conduct of the action.

Consequential amendment

(5) ~~On the directions hearing~~ **At the determination of the case management summons** the Court shall give such directions as may be appropriate for the future conduct of the action, including, but not limited to, the disclosure of medical reports and the place, mode and date of the hearing of the application for further damages.

Consequential amendment

(6) Only one application for further damages may be made in respect of each disease or type of deterioration specified in the order for the award of provisional damages.

(7) The provisions of Order 29 with regard to the making of interim payments shall, with the necessary modifications, apply where an application is made under this rule.

(8) The Court may include in an award of further damages simple interest at such rate as it thinks fit on all or any part thereof for all or any part of the period between the date of notification of the plaintiff's intention to apply for further damages and the date of the award.

Rules of the District Court (Amendment) Rules 2007

The Rules of the District Court (Cap. 336H)

Order 58 – APPEALS

Remarks

1. Appeals from master to judge in chambers (O. 58, r. 1)

(1) Except as provided by rule 2 and Order 32 rule 17, an appeal shall lie to a judge in chambers from any judgment, order or ~~determination of a master~~ **decision of a master, irrespective of whether the judgment, order or determination was given or made on the basis of written submissions only or after hearing.**

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(2) The appeal shall be brought by serving on every other party to the proceedings in which the judgment, order or ~~determination~~ **decision** was given or made a notice to attend before the judge on a day specified in the notice or as on such other day as may be directed.

(3) Unless the Court otherwise orders, the notice must be issued within 14 days after the judgment, order or ~~determination~~ **decision** appealed against was given or made and must be served within 5 days after issue and an appeal to which this rule applies shall not be heard sooner than 2 clear days after such service.

(4) No further evidence (other than evidence as to matters which have occurred after the date on which the judgment, order or decision was given or made) may be received on the hearing of an appeal under this rule except on special grounds.

2. Appeals to Court of Appeal (O. 58, r. 2)

(1) Subject to the provisions of this rule, an appeal shall lie to the Court of Appeal from any judgment, order or ~~determination~~ **decision** of a judge.

Consequential amendment

~~(2) Subject to the provisions of this rule, an appeal shall lie to the Court of Appeal from any judgment, order or determination of a master on the hearing or determination of any cause, matter, question or issue tried or assessed before him under Order 14, rule 6(2), Order 36, rule 1, Order 37, Order 49B or Order 84A, rule 3.~~

(2) Subject to the provisions of this rule, an appeal lies to the Court of Appeal from –

Alignment with RHC

(a) a judgment, order or decision of a master on the hearing or determination of any cause, matter, question or issue tried or assessed before him under Order 14, rule 6(2), Order 36, rule 1,

Order 37 or Order 84A, rule 3; and

- (b) a judgment, order or decision (other than an interlocutory judgment, order or decision) of a master given or made under Order 49B.

(2A) Notwithstanding paragraph (2)(b), an appeal lies to the Court of Appeal as of right from an order for imprisonment given or made by a master under Order 49B

(3) Subject to the provisions of the Ordinance, an appeal under this rule shall lie only with the leave of the Court or the Court of Appeal.

~~(4) An application for leave must be made to the judge, or to the master in the case of an appeal under paragraph (2), not later than the expiration of the following period beginning on the date immediately following the date on which the judgment or order of the Court was sealed or otherwise perfected; that is to say—~~

- ~~— (a) in the case of an appeal from any judgment, order or determination of a master under paragraph (2), 14 days;~~
~~— (b) in the case of an appeal from any interlocutory order, or any judgment or order given or made under Order 14 or Order 86 by a judge, 14 days;~~
~~— (c) in any other case, 28 days;~~

~~or if leave is refused, within a further 14 days from the date of such refusal to the Court of Appeal.~~

(4) An application for leave to appeal must be made to a judge, or to a master in the case of an appeal under paragraph (2), within –

- (a) in the case of an appeal from a judgment, order or decision of a master under paragraph (2), 28 days from the date of the judgment, order or decision;
(b) in the case of appeal from a judgment, order or decision (other than an interlocutory judgment, order or decision) of a judge, 28 days from the date of the judgment, order or decision;
(c) in the case of appeal from an interlocutory judgment, order or decision of a judge, 14 days from the date of the interlocutory judgment, order or decision.

(4A) If the judge or master (as the case may be) refuses an application for leave made under paragraph (4), a further application for leave may be made to the Court of Appeal within 14 days from the date of refusal.

(4B) An application under paragraph (4) or (4A) must be made inter partes if the proceedings to which the judgment, order or decision relates are inter partes.

(5) So far as is practicable, every application for leave to appeal made to a judge or a master shall be made to the judge or the master against whose judgment, order or ~~determination~~ decision the appeal is sought.

Remarks

(6) In any case in which the Court of Appeal may so allow, any such application may be made direct to the Court of Appeal.

~~(7) On any such application, the Court or the Court of Appeal, as the case may be, may in its discretion grant leave to appeal on such terms as to costs, payment of money into court, giving security for the prosecution of the appeal or otherwise as it may think fit.~~

(8) Where leave to appeal is granted under paragraph (4) **or (4A)**, the notice of appeal must be served under Order 59, rule 3(5) of the Rules of the High Court (Cap. 4 sub. leg. A), not later than 7 days after the date when leave is granted.

(9) In the case of an appeal from an order specified in section 63(3) of the Ordinance **or an order for imprisonment given or made under Order 49B**, the notice of appeal must be served under Order 59, rule 3(5) of the Rules of the High Court (Cap. 4 sub. leg. A), not later than ~~14 days from the date on which the order of the Court was sealed or otherwise perfected~~ **28 days from the date of the order of the Court.**

Consequential amendment

Alignment with RHC

(10) The Court or the Court of Appeal may, at any time, and notwithstanding that the time for an appeal or an application for leave to appeal may have already expired, extend the time for the appeal or for applying for leave to appeal.

~~3. Appeal not to operate as stay of proceedings (O. 58, r. 3)~~

~~— Except so far as the Court may otherwise direct, an appeal under this Order shall not operate as a stay of the proceedings in which the appeal is brought.~~

4. Non-interlocutory judgments and orders (O. 58, r. 4)

Alignment with RHC

(1) For the purposes of rule 2(4)(b) and (c), the following judgments and orders are not interlocutory –

- (a) a judgment or order determining in a summary way the substantive rights of a party to an action;
- (b) an order made under section 53(3) of the Ordinance;
- (c) an order prohibiting a debtor from leaving Hong Kong under Order 44A, rule 3(1);
- (d) an order for the imprisonment of a judgment debtor under Order 49B;
- (e) an order of committal for contempt of court under Order 52, rule 1;
- (f) a judgment given inter partes under Order 83A, rule 4, or Order 84A, rule 3 or in a mortgage action within the meaning of Order 88, rule 1.

(2) Without affecting the generality of paragraph (1)(a), the following are judgments and orders determining in a summary way the substantive rights of a party –

- (a) a summary judgment under Order 14 or Order 86;
- (b) an order striking out an action or other proceedings or a pleading or any part of a pleading under Order 18, rule 19 or under the inherent jurisdiction of the Court;
- (c) a judgment or order determining any question of law or construction of any document under Order 14A, rule 1(1);
- (d) an order or judgment made under Order 14A, rule 1(2) dismissing any cause or matter upon determination of a question of law or construction of any document;
- (e) a judgment on any question or issue tried pursuant to an order under Order 33, rule 3;
- (f) an order dismissing or striking out an action or other proceedings for want of prosecution;
- (g) a judgment obtained pursuant to an “unless” order;
- (h) an order refusing to set aside a judgment in default;
- (i) an order refusing to allow an amendment of a pleading to introduce a new claim or defence or any other new issue; and
- (j) a judgment or order on admissions under Order 27, rule 3.

(3) A direction as to whether a judgment or order is one that is referred to in paragraph (1)(a) may be sought from the judge who made or will make the judgment or order.

(4) A reference to an order specified in paragraph (1)(b), (c), (d) and (e) includes an order refusing, varying or discharging the order.

Rules of the District Court (Amendment) Rules 2007

The Rules of the District Court (Cap 336H)

Order 62 – COSTS (Schedules only)

Remarks

SCHEDULE 1 [r.32]

PART I
SCALE OF COSTS

Item	Particulars	Charges	Alignment with RHC
1.	Mechanical preparation of documents-		
	(a) — for the top copy, per page-		
	(i) — quarto size or above.....	\$50	
	(ii) — less than quarto size.....	\$30	
	(b) — for additional copies, either by photographic means, printing, carbon or any other method, per page of whatever size	\$3	
1.	<u>Preparation of a bundle of copy documents, including the costs of copying and collating the documents and compiling (including indexing and pagination) the bundle, per page of whatever size</u>	<u>\$4 per page in respect of the first bundle, and \$1 per page in respect of each subsequent bundle</u>	
1A.	<u>Copying of documents, per page of whatever size</u>	<u>\$1</u>	
2.	Attendance suitable for unqualified staff, such as for filing of documents, delivery or collection of papers and to make appointments, whether such attendances are made by qualified or unqualified persons, for each attendance	\$65 <u>\$72</u>	
3.	Attendance for necessary search and inquiries — such fee as the Registrar thinks proper but not less than \$25 for each attendance		

Remarks

4. Service of any documents — such fee as the Registrar thinks proper but not less than \$25 in each case

5. The Registrar may allow such fee as he thinks proper in respect of every other matter or thing not hereinbefore specially mentioned

Note to item 5: This item is intended to cover —

- (a) the doing of any work not otherwise provided for and which was properly done in preparing for a trial, hearing or appeal, or before a settlement of the matters in dispute, including —
 - (i) the client: taking instructions to sue, defend, counterclaim, appeal or oppose etc.; attending upon and corresponding with client;
 - (ii) witnesses: interviewing and corresponding with witnesses and potential witnesses, taking and preparing proofs of evidence and, where appropriate, arranging attendance at Court, including issue of subpoena;
 - (iii) expert evidence: obtaining and considering reports or advice from experts and plans, photographs and models; where appropriate arranging their attendance at Court, including issue of subpoena;
 - (iv) inspections: inspecting any property or place material to the proceedings;
 - (v) searches and inquiries: making searches in Government registries and elsewhere for relevant documents;
 - (vi) special damages: obtaining details of special damages and making or obtaining any relevant calculations;
 - (vii) other parties: attending upon and corresponding with other parties or their solicitors;
 - (viii) discovery: perusing, considering or collating documents for affidavit or list of documents; attending to inspect or produce for inspection any documents required to be produced or inspected by order of the Court **or by virtue of Order 24**;
 - (ix) documents: drafting, perusing, considering and collating any relevant documents (including pleadings, affidavits, cases and instructions to and advice from counsel, orders and judgments) and any law involved;

- (x) negotiations: work done in connection with negotiations with a view to settlement;
 - (xi) attendances: attendances at Court (whether in court or chambers) for the hearing of any summons or other application, on examination of any witness, on the trial or hearing of a cause or matter, on any appeal and on delivery of any judgment; attendances on counsel in conference, and any other necessary attendances;
 - (xii) interest: where relevant the calculation of interest on damages; and
 - (xiii) notices: preparation and service of miscellaneous notices, including notices to witnesses to attend Court; and
- (b) the general care and conduct of the proceedings.
6. Taxation of costs — obtaining the appointment, preparing bill of costs and copies and attending to lodge; attending taxation, paying taxing fee and lodging certificate or order Discretionary

PART II

GENERAL

1. Discretionary costs

- (2) In exercising his discretion in relation to any item, the taxing master shall have regard to all relevant circumstances, and in particular to —
- (a) the complexity of the item or of the cause or matter in which it arises and the difficulty or novelty of the questions involved;
 - (b) the skill, specialized knowledge and responsibility required of, and the time and labour expended by, the solicitor or counsel;
 - (c) the number and importance of the documents (however brief) prepared or perused;
 - (d) the place and circumstances in which the business involved is transacted;
 - (e) the importance of the cause or matter to the client;
 - (f) where money or property is involved, its amount or value;
 - (g) any other fees and allowances payable to the solicitor or counsel in respect of other items in the same cause or matter, but only where work done in relation to those items has reduced the work which would otherwise have been necessary in relation to the item in question.

2. Fees to counsel

(1) Except in the case of taxation under the Legal Aid Ordinance (Cap. 91) and taxation of fees payable by the Government, no fee to counsel shall be allowed unless —

- (a) before taxation its amount has been agreed by the solicitor instructing counsel; and
- (b) before the taxing master issues his certificate a receipt for the fees signed by counsel is produced to him.

(2) No retaining fee to counsel shall be allowed on any taxation of costs in relation to which rule 28(2) has effect.

(3) No costs shall be allowed in respect of counsel appearing before the Court unless —

- (a) where counsel appears for a plaintiff, the amount recovered exceeds \$150,000; (L.N. 94 of 2004)
- (b) where counsel appears for a defendant, the amount claimed by the plaintiff exceeds \$150,000; (L.N. 94 of 2004)
- (c) where counsel appears for a party making a counterclaim, the amount recovered exceeds \$150,000; (L.N. 94 of 2004)
- (d) where counsel appears for a party against whom a counterclaim is made, the amount of the counterclaim exceeds \$150,000; (L.N. 94 of 2004)
- (e) where counsel appears for a party to third party proceedings who issues the third party notice, the amount recovered exceeds \$150,000; (L.N. 94 of 2004)
- (f) where counsel appears for a party to third party proceedings against whom the third party notice is issued, the amount claimed in the third party notice exceeds \$150,000; (L.N. 94 of 2004)
- (g) where counsel appears for a party to proceedings on a notice issued by that party under Order 16, rule 8, the amount recovered exceeds \$150,000; (L.N. 94 of 2004)
- (h) where counsel appears for a party to proceedings on a notice issued against that party under Order 16, rule 8, the amount claimed in the notice exceeds \$150,000; or (L.N. 94 of 2004)
- (i) the Court has certified the attendance of counsel as being proper in the circumstances of the case. (L.N. 94 of 2004)

(3A) Where a party appearing by counsel is awarded costs, but the costs of employing counsel are not allowed, the taxing master may, on taxation, allow such costs as may have been allowed if the party had appeared by a solicitor and not by counsel.

(4) A refresher fee, the amount of which shall be in the discretion of the taxing master, shall be allowed to counsel, either for each period of 5 hours (or part thereof), after the first, during which a trial or hearing is proceeding or, at the

discretion of the taxing master, in respect of any day, after the first day, on which the attendance of counsel at the place of trial is necessary.

~~(5) Every fee paid to counsel shall be allowed in full on taxation, unless the taxing master is satisfied that the same is excessive and unreasonable, in which event the taxing master shall exercise his discretion having regard to all the relevant circumstances and in particular to the matters set out in paragraph 1(2).~~

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(5) The amount of fees to be allowed to counsel is in the discretion of the taxing master who shall, in exercising his discretion, have regard to all relevant circumstances and in particular to the matters set out in paragraph 1(2).

4. Items to be authorized, certified, etc.

(1) In an action arising out of an accident on land due to a collision or apprehended collision, the costs of preparing a plan (other than a sketch plan) of the place where the accident happened shall not be allowed unless-

- (a) before the trial the Court authorized the preparation of the plan; or
- (b) notwithstanding the absence of an authorization under subparagraph (a) the taxing master is satisfied that it was reasonable to prepare the plan for use at the trial.

(2) The costs of calling an expert witness with regard to any question as to which a Court expert is appointed under Order 40 shall not be allowed on a taxation of costs in relation to which rule 28(2) or (3) has effect unless the Court at the trial has certified that the calling of the witness was reasonable.

5. Attendances in chambers — equity jurisdiction

(1) The following provisions of this paragraph apply in relation to every hearing in chambers in the equity jurisdiction of the Court.

(3) Where on any such hearing as aforesaid the Court certifies that the speedy and satisfactory disposal of the proceedings required and received from the solicitor engaged in them exceptional skill and labour in the preparation for the hearing, the taxing master in taxing the costs to be allowed for instructions in relation to the summons or application shall take the certificate into account.

SCHEDULE 2 [rr. 28A & 32]
FIXED COSTS

PART I
WRITS

1. The Table hereunder shows the amount to be indorsed on the writ in respect

Remarks

of the ~~solicitor's charges~~ **plaintiff's cost** in an action for the recovery of money for the purpose of Order 6, rule 2(b) and of Part II of this Schedule. (L.N. 221 of 2001)

2. The amount indorsed in accordance with the Table hereunder shall be increased by — (L.N. 221 of 2001)

- (a) a sum equal to the appropriate court fees;
- (b) ~~\$40~~ **\$350** for every defendant after the first defendant;
- (c) ~~\$350~~ **\$650** for substituted service effected on every defendant. (L.N. 221 of 2001)

3. (Repealed L.N. 221 of 2001)

TABLE OF FIXED COSTS

~~1. On Writ-~~

~~(a) — where service is not by a solicitor \$300~~

~~(b) — where service is by a solicitor \$450~~

2. Payment of the amount claimed within the time and in the manner required by the indorsement of the writ

\$6,000 if the plaintiff is legally represented and \$350 if a plaintiff is not legally represented

Alignment with RHC

PART II
JUDGMENT

The amount to be included in the judgment in respect of the plaintiff's ~~solicitor's charges~~ **costs** shall be ~~the amount indorsed on the writ and in addition~~ the amount shown below — (L.N. 221 of 2001)

(1) Where judgment is entered or given —

(a) on failure to give notice of intention to defend (L.N. 221 of 2001)

\$300
\$6,500 if the plaintiff is legally represented and \$300 if the plaintiff is not legally represented

Alignment with RHC

Remarks

(b) in default of defence (L.N. 221 of 2001)	\$300 <u>\$6,500 if the plaintiff is legally represented and \$300 if the plaintiff is not legally represented</u>
(c) upon the defendant's admission or consent, or summarily <u>under Order 13A without a hearing</u>	\$300 <u>\$6,500 if the plaintiff is legally represented and \$300 if the plaintiff is not legally represented</u>
(d) under Order 14, rule 3, either unconditionally or unless the debt or liquidated demand indorsed on the writ is paid into court or to the plaintiff's solicitors (L.N. 221 of 2001)	\$300
(2) Where judgment is upon a trial ex parte	
(a) —where no defence has been filed	\$500
(b) —where a defence has been filed	\$700
(3) In the case of judgment in default of defence and the plaintiff makes an affidavit of service for the purpose of the judgment (the allowance to include the search fee) (L.N. 221 of 2001)	\$80
(4) In the case of judgment under Order 14, rule 3, where an affidavit of service of summons is required (L.N. 221 of 2001)	\$80
(5) In the case of judgment on failure to give notice of intention to defend on all applications by summons under Order 83A, rule 4 (which applies to money lender's actions)—	\$80
(a) —where judgment is given for interest at a rate exceeding 48 per cent per annum on production of an affidavit justifying the rate	\$40
(b) —in any other case	\$20
(c) —for every defendant after the first defendant (L.N. 221 of 2001)	

Remarks

- (6) ~~Where service out of the jurisdiction is ordered and effected (L.N. 221 of 2001)~~ ~~\$150 for every defendant~~

~~Note: Subject to any order as to costs, where the plaintiff's solicitor has necessarily attended Court more than once, a further sum of \$300 shall be allowed in respect of each such additional attendance.~~

**PART III
EXECUTIONS**

**Fixed Costs on the Issue of Execution
to Enforce a Judgment or Order**

Where execution is issued against a judgment debtor or garnishee for the purpose of enforcing a judgment or order obtained against him, fixed costs of ~~\$350~~ **\$400** shall be allowed to the judgment creditor's solicitor and be indorsed on the writ of execution. (L.N. 221 of 2001)

Alignment with
RHC

**PART IV
GARNISHEE ORDERS ~~AND CHARGING ORDERS~~**

Alignment with
RHC

1. Where upon the application of any person who has obtained a judgment or order against a debtor for the recovery or payment of money a garnishee order is made under Order 49 against a garnishee attaching debts owing or accruing from him to the debtor, the following costs shall be allowed-

- (a) to the garnishee, to be deducted by him from any debt owing by him
 - (i) if no affidavit is used ~~\$40~~ **\$70**
 - (ii) if an affidavit is used ~~\$70~~ **\$200**

Remarks

~~(b) to the applicant, to be retained unless the Court otherwise orders, out of the money recovered by him under the garnishee order and in priority to the amount of the debt owing to him under the judgment or order-~~

~~—— (i) basic costs \$100~~

~~—— (ii) additional costs where the garnishee fails to attend the hearing of the application and an affidavit of service is required \$40~~

~~2. Where a charging order is made-~~

~~(a) in respect of any stock, funds, annuities or shares, or any dividends or interest thereon or produce thereof, under Order 50; or~~

~~(b) in respect of any partnership property or profits, under section 25 of the Partnership Ordinance (Cap. 38),~~

~~there shall be allowed-~~

~~(i) basic costs \$400~~

~~(ii) additional costs where an affidavit of service is required \$40~~

~~(Part IV added L.N. 221 of 2001)~~