

L.N. 108 of 2002

Rules of The High Court (Amendment) Rules 2002

(Made by the Rules Committee of the High Court under section 54 of the High Court Ordinance (Cap. 4))

1. Right to sue in person

Order 5, rule 6(3)(a) of the Rules of the High Court (Cap. 4 sub. leg.) is amended by repealing everything after "represented by the director" and substituting a full stop.

2. Rule added

Order 9 is amended by adding---

"6. Right to defend in person (O. 9, r. 6)

(1) Subject to paragraph (2) and to Order 80, rule 2, a respondent to proceedings begun by petition may (whether or not he is sued as a trustee or personal representative or in any other representative capacity) defend the proceedings by a solicitor or in person.

(2) Where the respondent to such proceedings is a body corporate, except as expressly provided by or under any enactment or where leave is given under paragraph (3) for such respondent to be represented by one of its directors, such respondent may not take any step in the proceedings otherwise than by a solicitor.

(3) (a) An application by a body corporate for leave to be represented by one of its directors shall be made ex parte to a Registrar and supported by an affidavit, made by the director and filed with the application, stating and verifying the reasons why leave should be given for the body corporate to be represented by the director.

(b) The relevant resolution of the board of the body corporate authorizing the director to appear on its behalf if leave is granted shall be exhibited to the affidavit.

(4) No appeal shall lie from an order of the Registrar under paragraph (3) giving or refusing leave.

(5) The Court may at any time revoke the leave given by a Registrar under paragraph (3).

(6) No appeal shall lie from an order of the Court revoking leave given by a Registrar."

3. Mode of acknowledging service

Order 12, rule 1(2A)(a) is amended by repealing everything after "represented by the director" and substituting a full stop.

4. Order for interim payment in respect of damages

Order 29, rule 11 is amended---

(a) by repealing paragraph (2)(a) and substituting---

"(a) a person who is insured in respect of the plaintiff's claim or whose liability in respect of the plaintiff's claim will be met by the following person---

(i) an insurer under section 10 of the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272); or

(ii) an insurer who is a party to an agreement with the Motor Insurers' Bureau of Hong Kong; or

(iii) the Motor Insurers' Bureau of Hong Kong;"

(b) by adding---

"(3) In paragraph (2)(a)(ii), "agreement" (協議) means the domestic agreement between the Motor Insurers' Bureau of Hong Kong and the insurance companies and Lloyd's underwriters authorized to carry on motor vehicle insurance business in Hong Kong, made on 1 February 1981, as amended from time to time."

5. Record of judgment debtor's evidence given at examination

Order 48, rule 3 is amended by repealing everything after "examination shall" and substituting "cause to be recorded, by means of shorthand notes or mechanical, electronic or optical device or otherwise, the evidence given by the judgment debtor or other person at the examination."

6. Rule added

Order 49B is amended by adding---

"1AA. Record of judgment debtor's evidence given at examination
(O. 49B, r. 1AA)

The Court shall cause to be recorded, by means of shorthand notes or mechanical, electronic or optical device or otherwise, the evidence given by the judgment debtor at the examination conducted under rule 1A."

7. Application for order after leave

to apply granted

Order 52, rule 3 is amended by adding---

"(1A) The notice of motion shall state the grounds in respect of which leave for making an application for an order of committal has been granted."

8. Provisions as to hearing

Order 52, rule 6(3) is amended by repealing everything after "the grounds" and substituting "as stated in the notice of motion under rule 3(1A)."

Made this 20th day of June 2002.

Andrew LI The Hon. Mr. Justice

The Hon. Chief Justice ROGERS, V.P.

The Hon. Madam Justice Mr. Robert G. KOTEWALL, S.C.

YUEN, J.A.

Mr. Michael BUNTING, S.C. Mr. Nicholas HUNSWORTH
Mr. Michael LINTERN-SMITH Mr. Anthony L. M. WU
Mr. Jeremy S. C. POON
Secretary

Explanatory Note

The purpose of these Rules is to amend the Rules of the High Court (Cap. 4 sub. leg.)---

- (a) to simplify the requirements of an affidavit in support of an application under Order 5, rule 6(3)(a) or Order 12, rule 1(2A)(a) by a body corporate for leave to be represented by one of its directors, with a view to giving the Registrar of the High Court greater flexibility in considering the application (rules 1 and 3);
- (b) to provide in the new Order 9, rule 6 that a body corporate may not defend proceedings begun by petition otherwise than by a solicitor, except where leave is given for it to be represented by one of its directors (rule 2);
- (c) to provide that the class of persons against whom an order for interim payment may be made under Order 29, rule 11(1) shall include a person whose liability will be met by an insurer or the Motor Insurers' Bureau of Hong Kong (rule 4);
- (d) to update the provision in respect of the making of a record of a judgment debtor's evidence given at an examination conducted under Order 48 (rule 5);
- (e) to provide in the new Order 49B, rule 1AA for the making of a record of a judgment debtor's evidence given at an examination conducted under Order 49B (rule 6); and
- (f) to require an applicant for an order of committal under Order 52, rule 3 to state in the notice of motion the grounds in respect of which leave for making such an application has been granted (rules 7 and 8).