

CJRS 10/2008

**Subcommittee on Draft Subsidiary Legislation
Relating to the Civil Justice Reform**

**Proposed Amendments to the
High Court (Fees) Rules (Cap. 4D),
District Court Civil Procedure (Fees) Rules (Cap. 336C),
High Court Suitors' Funds Rules (Cap. 4B), and
District Court Suitors' Funds Rules (Cap. 336E)**

Purpose

This paper introduces the amendments proposed by the Steering Committee on Civil Justice Reform ("the Steering Committee") to the following rules –

- (a) High Court (Fees) Rules ("HCFR") (Cap. 4D);
- (b) District Court Civil Procedure (Fees) Rules ("DCFR") (Cap. 336C),
- (c) High Court Suitors' Funds Rules ("HCSFR") (Cap. 4B); and
- (d) District Court Suitors' Funds Rules ("DCSFR") (Cap. 336E).

Four Sets of Draft Amendment Rules

2. The following four sets of draft amendment rules (and their marked-up version) are attached -

- (a) Draft High Court (Fees) (Amendment) Rules 2008 ("Draft HCFR") at **Annex A**;
- (b) Draft District Court Civil Procedure (Fees) (Amendment) Rules ("Draft DCFR") at **Annex B**;
- (c) Draft High Court Suitors' Funds (Amendment) Rules ("Draft HCSFR") at **Annex C**; and

- (d) Draft District Court Suitors' Funds Rules ("Draft DCSFR") at **Annex D**.

Annex D

Amendments in the Draft HCFR and Draft DCFR

3. The amendments in the Draft HCFR and DCFR are consequential to certain amendments contained in (i) the Civil Justice (Miscellaneous Amendments) Ordinance 2008 ("CJO"), (ii) the latest draft Rules of the High Court (Amendment) Rules 2008 ("Draft RHC"), and (iii) the latest draft Rules of the District Court (Amendment) Rules 2008 ("Draft RDC").

Amendments Consequential to the CJO

4. Following the enactment of the CJO, amendments have been introduced to the High Court Ordinance ("HCO") (Cap. 4) to empower the Court of First Instance ("CFI") to grant interim relief in aid of proceedings outside Hong Kong which are capable of giving rise to a judgment that is capable of being enforced in Hong Kong (cf. new section 21M of HCO). Consequential amendments are proposed to the HCFR to provide for a prescribed fee payable on the sealing of an order made under section 21M of the HCO (cf. proposed amendments to item 23 in the First Schedule to the HCFR).

5. The CJO also amends section 27 of the HCO to allow a vexatious litigant order to be made not only on the application of the Secretary for Justice, but also on the application of any person who is or has been a party to vexatious proceedings instituted by a vexatious party, or who has directly suffered adverse consequences resulting from such proceedings. As has been the case under the existing section 27, a person subject to a vexatious litigant order has to file a notice for application to CFI for leave to institute or continue proceedings. In line with the objective to screen out vexatious litigation, thereby enabling fairer distribution of the court's resources for genuine disputes, amendments are proposed to the HCFR to -

- (a) Introduce a new fee at \$1,045 (i.e. the same amount charged for other similar applications such as the commencement of a cause or matter at the High Court) for the filing of a notice of application for leave to institute or continue proceedings by a vexatious litigant (cf. proposed item 25 in the First Schedule to the HCFR); but

- (b) Provide that a vexatious litigants who have been charged \$1,045 for leave application need not be charged again for commencing proceedings upon grant of leave (cf. proposed amendments to item 1 in the First Schedule to the HCFR).

Amendments Consequential to the Latest Draft RHC and Draft RDC

6. The Steering Committee has proposed certain amendments to the provisions governing taxation procedures in Order 62 of the latest draft RHC and RDC, including (i) empowering the Court to make a summary assessment of costs when disposing of an interlocutory application (cf. rr.9 and 9A of the latest Draft RHC and RDC); and (ii) requiring a party to pay to the Court a prescribed taxing fee when filing a notice of commencement of taxation (cf. O.62, r.21(5) of the latest draft RHC and RDC).

7. Following the above proposed amendments to the RHC and RDC, and in line with the objective to facilitate settlement and to deter the inflation of the bill of costs, amendments are proposed to the HCFR and the DCFR to prescribe that –

- (a) Taxing fees will be levied on the amount claimed in the bill of costs, instead of the amount allowed as at present. However, the prescribed taxing fees are not payable on summary assessment of costs. (cf. proposed amendments to item 19 in the First Schedule to the HCFR); and
- (b) 10% of the taxing fee is payable if a bill of costs is withdrawn within 7 days after the application for setting down the taxation (cf. proposed amendments to item 19a in the First Schedule to the HCFR).

Amendments in the Draft HCSFR and Draft DCSFR

8. The proposed amendments in the Draft HCSFR and Draft DCSFR are mainly consequential to the new Order 22 in the latest draft RHC and RDC. Under the new Order 22, a party to the proceedings has 28 days to consider whether to accept a sanctioned payment.

9. Under the existing r.16(3A) of the HCSFR, if money is paid in court as security for costs, or by way of satisfaction or amends, or in

compliance with an order giving leave to defend upon the payment, interest is to be credited in respect of the payment as from the day beginning 14 days after the money is paid in. To cater for the system of sanctioned payment under the new Order 22, amendments are proposed to r.16 of the HCSFR to provide that where the money so paid in court is an offer made by way of a payment into court in accordance with the new Order 22 of the RHC, interest is to be credited in respect of the payment as from the day beginning 28 days after the money is paid in.

10. Amendments are proposed to the DCSFR to (i) align with the existing r.16(3A) of the HCSFR, and (ii) cater for the system of sanctioned payment under the new Order 22 in the latest Draft RDC.

Public Consultation

11. As in the case of the latest Draft RHC, the proposed amendments to the HCFR and DCFR were contained in the Steering Committee's two consultation papers, namely, (i) the "*Consultation Paper on Proposed Legislative Amendments for the Implementation of the CJR*" issued in April 2006 for a 3-month consultation, and (ii) the "*Revised Proposals for Amendments to Subsidiary Legislation under the CJR*" issued in October 2007 for 1-month consultation. The proposed amendments to the HCSFR and DCSFR were contained in the second Consultation Paper. No comments have been received.

12. The two legal professional bodies have subsequently been further consulted on the proposed fee level of \$1,045 for the filing of a notice of application for leave to institute or continue proceedings by a vexatious litigant. The proposed amendments to item 1 in the First Schedule to the HCFR have taken into account the Bar Association's comments.

Judiciary Administration
March 2008

HIGH COURT FEES (AMENDMENT) RULES 2008

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

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of the Civil Justice (Miscellaneous Amendments) Ordinance 2008 (3 of 2008).

2. Rule added

The High Court Fees Rules (Cap. 4 sub. leg. D) are amended by adding –

"5. Transitional provision relating to the High Court Fees (Amendment) Rules 2008

Where a party entitled to require any costs to be taxed has obtained an appointment to tax before the commencement of rule 3(a) and (b) ("the amending rule") of the High Court Fees (Amendment) Rules 2008 (L.N. of 2008) –

- (a) nothing in the amending rule applies in relation to the taxation; and
- (b) items 19 and 19a in the First Schedule as in force immediately before the commencement of the amending rule continue to apply in relation to the taxation as if they had not been amended by the amending rule."

3. First Schedule amended

The First Schedule is amended –

- (a) in item 1, by repealing "\$1,045.00" and substituting –
"\$1,045.00
(but no fee is payable on sealing of an originating summons by which proceedings are instituted pursuant to leave granted under section 27A of the Ordinance)";
- (b) in item 19, by repealing everything from "On" to "allowed" and substituting –
"On the filing of a notice of commencement of taxation under Order 62, rule 21(1) of the Rules of the High Court (Cap. 4 sub. leg. A) or on any assessment or determination of costs pursuant to any court order or Ordinance (except assessment under Order 62, rule 9 or 9A of the Rules of the High Court (Cap. 4 sub. leg. A)), for every \$100 or fraction of \$100 of the amount claimed";
- (c) in item 19a, by repealing everything from "Processing" to "taxation" and substituting –
"Withdrawal of a bill of costs within 7 days after the application for setting down the taxation under Order 62, rule 21A(1) of the Rules of the High Court (Cap. 4 sub. leg. A) is made";

- (d) in item 23, by adding "or of an order made under section 21M of the Ordinance" after "a cause";
- (e) by adding –
 - "25. Filing a notice of application for leave to institute or continue proceedings under Order 32A, rule 2 of the Rules of the High Court (Cap. 4 sub. leg. A)
 -
 - \$1,045.00".

Made this day of 2008.

Explanatory Note

These Rules amend the High Court Fees Rules (Cap. 4 sub. leg. D)("the principal Rules").

2. Rule 2 adds a new rule to the principal Rules to provide for the transitional arrangement relating to the amendments to items 19 and 19a in the First Schedule to the principal Rules, effected by rule 3 of these Rules.

3. Rule 3(a) amends item 1 in the First Schedule to the principal Rules to provide that the fee prescribed in that item is not payable on sealing of an originating summons by which proceedings are instituted pursuant to leave to institute proceedings by a person who is subject to a vexatious litigant order.

4. Rule 3(b) amends item 19 in the First Schedule to the principal Rules to provide that the fee prescribed in that item is payable on the filing of a notice of commencement of taxation or on any assessment or determination of costs pursuant to any court order or Ordinance. The prescribed fee is however not payable on the summary assessment of costs under Order 62, rule 9 or 9A of the Rules of the High Court (Cap. 4 sub. leg. A). It should also be noted that amount of the fee is determined on the basis of the amount claimed instead of on the basis of the amount allowed.

5. Rule 3(c) amends item 19a in the First Schedule to the principal Rules to provide that the fee prescribed in that item is payable where a bill of costs is withdrawn within 7 days after the application for setting down the taxation is made.

6. Rule 3(d) amends item 23 in the First Schedule to the principal Rules to provide that the fee prescribed in that item is also payable on sealing of an order made under section 21M (Interim relief in the absence of substantive proceedings) of the High Court Ordinance (Cap. 4).

7. Rule 3(e) adds a new item 25 to the First Schedule to the principal Rules to prescribe the fee payable for applying for leave to institute or continue proceedings by a person who is subject to a vexatious litigant order.



HIGH COURT FEES (AMENDMENT) RULES 2008

HIGH COURT FEES RULES (Cap. 4D)

Remarks

1. Citation

These rules may be cited as the High Court Fees Rules.

2. Fees payable in the High Court

(1) The fees respectively specified in the First and Second Schedules shall be payable in respect of all proceedings in any action or matter whatsoever in the High Court, whenever commenced. (25 of 1998 s. 2)

(2) The Registrar may reduce, remit or defer payment of any fee specified in the First or Second Schedule as he may think fit in any particular case and shall in every case where he exercises this power endorse on the relevant document a note of such reduction, remission or deferment and the reason therefor.

3. Method of payment of fees

Unless otherwise in the Schedules provided, the said fees shall be payable by means of adhesive stamps, or by causing the relevant documents to be franked with the amount of fees.

4. Application to the Crown

These rules shall apply to all proceedings by or against the Crown.

5. Transitional provision relating to the High Court Fees (Amendment) Rules 2008

Rule 2

Where a party entitled to require any costs to be taxed has obtained an appointment to tax before the commencement of rule 3(a) and (b) (“the amending rule”) of the High Court Fees (Amendment) Rules 2008 (L.N. of 2008) –

- (a) nothing in the amending rule applies in relation to the taxation; and**
(b) items 19 and 19a in the First Schedule as in force immediately before the commencement of the amending rule continue to apply in relation to the taxation as if they had not been amended by the amending rule.

Remarks

Schedule 1

COMMENCEMENT OF A CAUSE OR MATTER

Fee

1. On sealing-
 - (a) a writ of summons (except a concurrent, renewed or amended writ);
 - (b) an originating summons;
 - (c) an originating notice of motion;
 - (d) an originating petition;
 - (e) an originating ex parte application;
 - (f) any other originating document.

In each case
\$1,045.00
(but no fee is payable on sealing of an originating summons by which proceedings are instituted pursuant to leave granted under section 27A of the Ordinance)

Rule 3

ENTRY OR SETTING DOWN FOR TRIAL IN COURT

2.
 - (a) Setting down a cause or issue for hearing;
 - (b) Setting down a civil appeal, motion or summons for hearing;
 - (c) Entering a reference for hearing of an assessment of damages by the Registrar.

In each case
\$1,045.00

TAKING EVIDENCE, ETC.

3. For every witness examined de bene esse by a judge or the Registrar, per day or part thereof.....

\$ 880.00

Remarks

4.	Attendance of a public officer to produce or prove in the High Court any record or document (25 of 1998 s. 2).....	\$ 440.00
5.	Attendance of a public officer to give evidence as an expert witness, per hour or part thereof	\$ 440.00 (or such other fee as is specially assessed by the judge or Registrar)
6.	Attendance of a public officer to give evidence other than as an expert witness, per hour or part thereof	\$ 220.00 (with a minimum of \$440.00)
7.	Attendance by the Registrar or officer outside the High Court (25 of 1998 s.2).....	\$1,045.00

COPIES, TRANSLATIONS AND SEARCHES

8.	(a) Copy of documents typed in the Registry and certifying same, per page	\$ 36.00
	(b) Additional copies, per page.....	\$ 4.00
9.	(a) Photostatic copy of a document made in the Registry, per page	\$ 4.00
	(b) Photostatic copy and certification, per page	\$ 5.50
	(c) Photostatic copy of a library book, per page.....	\$ 4.00
10.	(a) Translation made in the Registry of a document from Chinese into English, or vice versa including certificate, per page.....	\$ 72.00
	(b) Transcription and translation made in the Registry, from Chinese into English, or vice versa, of a tape or recording including certificate, per page.....	\$ 132.00
	(c) (Repealed L.N. 364 of 1992)	
11.	(a) Certifying translations made outside the Registry, from Chinese into English, and vice versa, per page	\$ 36.00

Remarks

(b) Certifying transcription made outside the Registry, from Chinese into English, and vice versa, of a tape or recording, per page	\$ 36.00
12. Search in the Registry, for each document or file referred to or required	\$ 18.00

SERVICE

13. Service of a document by a bailiff, per document.....	\$ 110.00
14. Arresting any person	\$ 630.00
15. Execution of writ of possession.....	\$1045.00

EXECUTION

16. On sealing-	
(a) a warrant for arrest of a defendant, for the arrest and detention of a ship or for the attachment of property before judgment;	
(b) a writ of execution or writ of possession;	
(c) a writ of habeas corpus;	
(d) a prohibitory order;	
(e) an order for the examination of a judgment debtor (or an officer thereof);	
(f) a prohibition order.	In each case \$1,045.00

BAILIFF'S EXPENSES

17. (a) Watchman's fee, per day or part thereof	\$ 330.00
(b) Caretaker's fee, per day or part thereof	Actual expenditure (L.N. 364 of 1992)

Remarks

- | | | |
|--|---|--|
| 18. Caretaker or watchman’s transportation expenses..... | Actual
expenditure plus
20% thereof
being
administrative
charges (L.N.
364 of 1992) | |
|--|---|--|

TAXATION OF COSTS

19. ~~On the taxation of a bill of costs or any assessment under Order 62, rule 21(4), for every \$100 or fraction of \$100 of the amount allowed~~
On the filing of a notice of commencement of taxation under Order 62, rule 21(1) of the Rules of the High Court (Cap. 4 sub. leg. A) or on any assessment or determination of costs pursuant to any court order or Ordinance (except assessment under Order 62, rule 9 or 9A of the Rules of the High Court (Cap. 4 sub. leg. A), for every \$100 or fraction of \$100 of the amount claimed

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|-----------------------------------|---------|--------|
| (a) for the first \$100,000 | \$ 6.00 | |
| (b) for the next \$150,000 | \$ 4.00 | Rule 3 |
| (c) for the next \$250,000 | \$ 3.00 | |
| (d) for the remainder | \$ 1.00 | |

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| 19a. Processing of a bill of costs which is withdrawn less than 7 days before the appointment for taxation
<u>Withdrawal of a bill of costs within 7 days after the application for setting down the taxation under Order 62, rule 21A(1) of the Rules of the High Court (Cap. 4 sub. leg. A) is made</u> | 10% of the taxing
fee which would
be payable if the
bill was to be
allowed in full or
\$1000 whichever
is the less (L.N.
345 of 1989) | |
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MISCELLANEOUS FEES

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|--|-----------|--|
| 20. On the sale of a ship or goods in an admiralty case, for every \$1500 or part thereof of the price | \$ 15.00 | |
| 21. Authentication of document by the Registrar | \$ 125.00 | |

Remarks

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|---|------------|
| 22. On sealing of a notice in Form No. 80 under Order 50, rule 11(2) (L.N. 364 of 1992) | \$1,045.00 |
| 23. On sealing of an injunction order undertaken before commencement of a cause <u>or of an order made under section 21M of the Ordinance</u> (L.N. 364 of 1992) | \$1,045.00 |
| 24. Registration of an enduring power of attorney (L.N. 283 of 1997)..... | \$ 440.00 |

(Enacted. 1988. L.N. 364 of 1992; L.N. 141 of 1994; L.N. 337 of 2000; L.N. 25 of 2001)

Rule 3

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|---|--------------------------|
| <u>25. Filing a notice of application for leave to institute or continue proceedings under Order 32A, rule 2 of the Rules of the High Court (Cap. 4 sub. leg. A)</u> | <u>\$1,045.00</u> |
|---|--------------------------|

**DISTRICT COURT CIVIL PROCEDURE (FEES)
(AMENDMENT) RULES 2008**

(Made by the District Court Rules Committee
under section 72 of the District Court
Ordinance (Cap. 336))

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of the Civil Justice (Miscellaneous Amendments) Ordinance 2008 (3 of 2008).

2. Rule added

The District Court Civil Procedure (Fees) Rules (Cap. 336 sub. leg. C) are amended by adding –

**"8. Transitional provision relating to
the District Court Civil Procedure
(Fees)(Amendment) Rules 2008**

Where a party entitled to require any costs to be taxed has obtained an appointment to tax before the commencement of rule 3(a) and (b) ("the amending rule") of the District Court Civil Procedure (Fees)(Amendment) Rules 2008 (L.N. of 2008) –

- (a) nothing in the amending rule applies in relation to the taxation; and
- (b) items 20 and 20a in the Schedule as in force immediately before the commencement of the amending rule continue to apply in relation to the taxation as if they had not been amended by the amending rule."

3. Schedule amended

The Schedule is amended –

- (a) in item 20, by repealing everything from "On" to "allowed" and substituting –

"On the filing of a notice of commencement of taxation under Order 62, rule 21(1) of the Rules of the District Court (Cap. 336 sub. leg. H) or on any assessment or determination of costs pursuant to any court order or Ordinance (except assessment under Order 62, rule 9 or 9A of the Rules of the District Court (Cap. 336 sub. leg. H)), for every \$100 or fraction of \$100 of the amount claimed";

- (b) in item 20a, by repealing everything from "Processing" to "taxation" and substituting –

"Withdrawal of a bill of costs within 7 days after the application for setting down the taxation under Order 62, rule 21A(1) of the Rules of the District Court (Cap. 336 sub. leg. H) is made".

Made this day of 2008.

Explanatory Note

These Rules amend the District Court Civil Procedure (Fees) Rules (Cap. 336 sub. leg. C)("the principal Rules").

2. Rule 2 adds a new rule to the principal Rules to provide for the transitional arrangement relating to the amendments to items 20 and 20a in the Schedule to the principal Rules, effected by rule 3 of these Rules.

3. Rule 3(a) amends item 20 in the Schedule to the principal Rules to provide that the fee prescribed in that item is payable on the filing of a notice of commencement of taxation or on any assessment or determination of costs pursuant to any court order or Ordinance. The prescribed fee is however not payable on the summary assessment of costs under Order 62, rule 9 or 9A of the Rules of the District Court (Cap. 336 sub. leg. H). It should also be noted that amount of the fee is determined on the basis of the amount claimed instead of on the basis of the amount allowed.

4. Rule 3(b) amends item 20a in the Schedule to the principal Rules to provide that the fee prescribed in that item is payable where a bill of costs is withdrawn within 7 days after the application for setting down the taxation is made.

**DISTRICT COURT CIVIL PROCEDURE (FEES)
(AMENDMENT) RULES 2007**

DISTRICT COURT CIVIL PROCEDURE (FEES) RULES (Cap. 336C)

Remarks

1. Citation

These rules may be cited as the District Court Civil Procedure (Fees) Rules.

(Enacted 1988)

2. Fees

The fees specified in the Schedule shall be payable in respect of all proceedings taken in any action or matter whatsoever in the Court whenever commenced, save where express provision is made by any other enactment in respect of any particular form of proceedings.

3. Payment of fees

Save where otherwise provided in the Schedule, the fees therein specified shall be payable either by adhesive stamps or by causing the relevant document to be franked with the amount of the relevant fee.

(Enacted 1988)

4. Saving of special fee

Where, in relation to any particular proceedings in the Court, a fee is specified in the Schedule, that fee shall be payable in substitution for and not in addition to any general fee specified in the Schedule.

(Enacted 1988)

5. (Repealed L.N. 402 of 1992)

6. Power of Registrar

The Registrar may reduce, remit or defer payment of any fee specified in the Schedule as he may think fit in any particular case and shall, in every case where he exercises this power, endorse on the relevant document a note of such reduction, remission or deferment and of the reason therefor.

(Enacted 1988)

Remarks

7. Application to the Government

These Rules shall apply to all proceedings by or against the Government.
(L.N. 187 of 2000)

**8. Transitional provision relating to the District Court Civil Procedure
(Fees)(Amendment) Rules 2008**

Rule 2

**Where a party entitled to require any costs to be taxed has obtained
an appointment to tax before the commencement of rule 3(a) and (b) (“the
amending rule”) of the District Court Civil Procedure (Fees)(Amendment)
Rules 2007 (L.N. of 2008) –**

- (a) nothing in the amending rule applies in relation to the taxation;
and**
- (b) items 20 and 20a in the Schedule as in force immediately before
the commencement of the amending rule continue to apply in
relation to the taxation as if they had not been amended by the
amending rule.**

SCHEDULE

Item	Particular	Fee \$	[rule 2]
Commencement of a Cause or Matter			
1.	On sealing–		
	(a) a writ of summons (except a concurrent, renewed or amended writ)	630	
	(b) an originating summons	630	
	(c) an originating ex parte application	630	
	(d) any other originating document	630	
Entry or Setting Down for Trial in Court			
2.	(a) Applying for pre-trial review	630	
	(b) Setting down a civil appeal or summons for hearing	630	
	(c) Entering a reference for hearing of an assessment of damages by a judge or the Registrar	630	
Taking Evidence, etc.			
3.	For every witness examined de bene esse by a judge or the Registrar, per day or part thereof	530	
4.	Attendance of a public officer to produce or prove in the District Court any record or document	440	

Remarks

5.	Attendance of a public officer to give evidence as an expert witness, per hour or part thereof	440	(or such other fee as is specially assessed by the judge or Registrar)
6.	Attendance of a public officer to give evidence other than as an expert witness, per hour or part thereof	220	(with a minimum of \$440)
7.	Attendance by the Registrar or officer outside the District Court	630	

Copies, Translation and Searches

8.	(a) Copy of documents typed in the Registry and certifying same, per page	36	
	(b) Additional copies, per page	4	
9.	(a) Photostatic copy of a document made in the Registry, per page	4	
	(b) Photostatic copy and certification, per page	5.5	
	(c) Photostatic copy of a library book, per page	4	
10.	(a) Translation made in the Registry of a document from Chinese into English, or vice versa including certificate, per page	72	
	(b) Transcription and translation made in the Registry, from Chinese into English, or vice versa, of a tape or recording including certificate, per page	132	
11.	(a) Certifying translations made outside the Registry, from Chinese into English, or vice versa, per page	36	

Remarks

	(b) Certifying transcription made outside the Registry, from Chinese into English, or vice versa, of a tape or recording, per page	36
12.	Search in the Registry, for each document or file referred to or required	18

Service

	13. Service of a document by a bailiff, per document.....	72
14.	Arresting any person	385
15.	Execution of writ of possession	630

Execution

	16. On sealing-	630
	(a) a warrant for arrest of a defendant or for the attachment of property before judgment	
	(b) a writ of execution or writ of possession	630
	(c) a prohibitory order	630
	(d) an order for the examination of a judgment debtor (or an officer thereof)	630
	(e) a prohibition order	630

Bailiff's Expenses

	17. Watchman's fee, per day or part thereof for all cases	330
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Remarks

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|-----|---|--|--|
| 18. | Caretaker's fee, per day or part thereof | Actual expenditure | |
| 19. | Caretaker's or watchman's transportation expenses | Actual expenditure plus 20% thereof being administrative charges | |

Taxation of Costs

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|------|---|--|--------|
| 20. | On the taxation of a bill of costs or any assessment under Order 62, rule 21(4) of the Rules of the High Court (Cap. 4 sub. leg.), for every \$100 or fraction of \$100 of the amount allowed
<u>On the filing of a notice of commencement of taxation under Order 62, rule 21(1) of the Rules of the District Court (Cap. 336 sub. leg. H) or on any assessment or determination of costs pursuant to any court order or Ordinance (except assessment under Order 62, rule 9 or 9A of the Rules of the District Court (Cap. 336 sub. leg. H), for every \$100 or fraction of \$100 of the amount claimed</u> | | Rule 3 |
| | | 5 | |
| 20a. | Processing of a bill of costs which is withdrawn less than 7 days before the appointment for taxation
<u>Withdrawal of a bill of costs within 7 days after the application for setting down the taxation under Order 62, rule 21A(1) of the Rules of the District Court (Cap. 336 sub. leg. H) is made</u> | 10% of the taxing fee which would be payable if the bill was to be allowed in full or \$1,000 whichever is the less (L.N. 187 of 2000) | |

Miscellaneous Fees

- | | | |
|-----|--|---------------------------|
| 21. | Authentication of document by the Registrar | 125 |
| 22. | On sealing of a notice in Form No. 80 under Order 50, rule 11(2) | 630
(L.N. 187 of 2000) |

Remarks

23. On sealing of an injunction order 630
undertaken before commencement of a (L.N. 187 of 2000)
cause

(L.N. 402 of 1992; L.N. 140 of 1994; 25 of 1998
s. 2; L.N. 187 of 2000; L.N. 338 of 2000; L.N.
26 of 2001)

HIGH COURT SUITORS' FUNDS (AMENDMENT) RULES 2008

(Made by the Chief Judge under section 57
of the High Court Ordinance (Cap. 4))

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of the Civil Justice (Miscellaneous Amendments) Ordinance 2008 (3 of 2008)

2. Power of Registrar to invest funds

The High Court Suitors' Funds Rules (Cap. 4 sub. leg. B) are amended, in rule 16 –

(a) in paragraph (3), by repealing "paragraph (3A)" and substituting "paragraphs (3A) and (3B)";

(b) by adding –

"(3B) Notwithstanding paragraph (3A), where money paid in court for any purpose referred to in paragraph (3)(a) is a sanctioned payment within the meaning of Order 22 of the Rules of the High Court (Cap. 4 sub. leg. A), interest shall be credited on the ledger credit for the relevant cause or matter, beginning 28 days after the money is paid in."

Chief Judge

2008

Explanatory Note

Under rule 16(3A) of the High Court Suitors' Funds Rules (Cap. 4 sub. leg. B), if money is paid in court as security for costs, or by way of satisfaction or amends, or in compliance with an order giving leave to defend upon the payment, interest is to be credited in respect of the payment as from the day beginning 14 days after the money is paid in. These Rules amend rule 16 of the High Court Suitors' Funds Rules (Cap. 4 sub. leg. B) to provide that where the money so paid in court is an offer made by way of a payment into court in accordance with the new Order 22 of the Rules of the High Court (Cap. 4 sub. leg. A), interest is to be credited in respect of the payment as from the day beginning 28 days after the money is paid in.

HIGH COURT SUITORS' FUNDS (AMENDMENT) RULES 2007

HIGH COURT SUITORS' FUNDS RULES (Cap. 4B)

Remarks:

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

Remarks

1. Citation

PRELIMINARY

These rules may be cited as the High Court Suitors' Funds Rules.

(25 of 1998 s. 2)

2. Interpretation

In these rules, unless the context otherwise requires—

“Accountant” (會計師) means the Judiciary Accountant;

“court” (法院) means the High Court; (25 of 1998 s. 2)

“funds” (儲存金) or “funds in court” (法院儲存金) means any money or securities, movable property or any part thereof standing in or to be placed to the Registrar's account and includes boxes and other effects;

“ledger credit” (分類帳貸方) means the title of the cause or matter and the separate account (if any) opened or to be opened under an order or otherwise in the books of the Registrar to which any funds are credited or to be credited;

“lodge in court” (向法院交存) means pay or transfer into court or deposit in court, and “lodgment in court” (交存於法院), has a corresponding meaning;

“order” (命令) means an order of the court and includes a judgment or decree and includes the schedule or schedules to an order;

“Registrar” (司法常務官) means the Registrar of the court;

“title of the cause or matter” (訟案或事宜的標題) means the short title of the cause or matter with reference to the record.

Remarks

3. Lodgment of funds

LODGMENT OF FUNDS IN COURT

- (1) All funds to be lodged in court on any ledger credit shall, unless required by any law to be dealt with in any particular way, be lodged with the Registrar who shall give to the person making the lodgment a receipt in respect thereof.
- (2) When it is proposed to lodge in court any securities, movable property, boxes or other effects, the Registrar may make such inspection thereof as he thinks fit, before giving to the person making the lodgment a receipt in respect thereof.
- (3) Every receipt given in respect of any lodgment shall be headed with the title of the cause or matter and the title of the ledger account to which the lodgment is referable and shall contain adequate particulars as to such lodgment and shall be as nearly as may be in Form 1 in the Schedule.
- (4) Where money is lodged in satisfaction or part satisfaction of any claim either with or without defence setting up tender or denying liability or where the same is lodged to security for costs or under or on account of any judgment or order, the receipt shall contain a statement of such of the following circumstances as are applicable—
 - (a) paid in on behalf of defendant in satisfaction of claim of the above-named (name of party);
 - (b) paid in on behalf of defendant against claim of the above-named (name of party) with defence setting up tender;
 - (c) paid in on behalf of defendant against claim of the above-named (name of party) with defence denying liability;
 - (d) paid in under order dated the day of 19 ;
 - (e) paid in to security for costs account on behalf of (name of party);
 - (f) paid in on account of the judgment or order obtained by (name of party).
- (4A) Where money is lodged by a party to arbitration proceedings who makes payment into the High Court in accordance with rules of court the receipt shall contain a statement of the circumstances as set out in the notice of payment which accompanied the payment in. (L.N. 351 of 1982; 25 of 1998 s. 2)
- (5) Where the funds lodged are money the Registrar shall pay the same to an account to be called the “High Court Suitors’ Funds Account” at such bank as the Director of Accounting Services shall direct. (25 of 1998 s. 2)

4. Keeping of accounts and register

- (1) The Registrar shall—
 - (a) keep appropriate ledger accounts to which all funds lodged in court which are money or securities shall be credited and any such funds

Remarks

- withdrawn or transferred therefrom shall be debited to such accounts;
- (b) enter into such accounts in an appropriate manner the investment of any such funds lodged in court; and
 - (c) enter into such accounts in an appropriate manner any dealing, other than by way of lodgment, withdrawal, transfer or investment, of such funds as the circumstances of the case require.
- (2) The Registrar shall–
- (a) keep a register of all funds lodged in court which are not money or securities;
 - (b) enter in the register any lodgment, withdrawal, transfer or other dealings of such funds; and
 - (c) for each entry in the register make a memorandum in the appropriate manner in the ledger accounts.

5. Annual statement of accounts

- (1) The Registrar shall cause to be prepared for every period of 12 months ending on 31 March in each year a statement of the accounts kept under rule 4(1) which statement shall–
- (a) include a receipts and payments account and a statement of assets and liabilities; and
 - (b) be signed by the Registrar.

- (2) (Repealed 32 of 2000 s. 23)

6. Shares and securities

- (1) All kinds of securities may be lodged in court.
- (2) Shares and securities issued by companies or corporations constituted under the laws of Hong Kong, such shares being fully paid up and free from all liability, may be transferred to the Registrar by his name of office.
- (3) Other shares and securities may be placed in a box or packet and lodged with the Registrar, who shall, before taking custody of such box or packet, ensure that it is properly marked and secured and shall inspect the contents thereof in the presence of the person lodging the same.
- (4) When shares or securities are to be transferred into the name of the Registrar, the person lodging such shares or securities shall–
- (a) execute a transfer thereof and shall obtain from the Registrar an authority which shall be as nearly as may be in Form 2 in the Schedule; and
 - (b) lodge such transfer together with the authority at the office of the company or corporation in whose books the securities are to be transferred.

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(5) A company or corporation at the office of which a transfer and authority under paragraph (4) has been lodged shall, after registering such transfer, forward to the Registrar a certificate that the securities have been transferred as authorized, which certificate shall be as nearly as may be in Form 3 in the Schedule.

(6) On receiving a certificate under paragraph (5) the Registrar shall give to the person making the lodgment his receipt in respect thereof.

7. Principal money and dividend in respect of securities to be placed in books

Any principal money or dividends received by the Registrar in respect of securities lodged in court shall be placed in his books, in the case of principal money to the credit to which the securities whereon such money arose were standing at the time of the receipt thereof, and in the case of dividends to the credit to which the securities whereon such dividends accrued were standing at the time of closing of the transfer books of such securities previously to the dividends becoming due.

PAYMENT, DELIVERY AND TRANSFER OF FUNDS OUT OF COURT
AND OTHER DEALINGS WITH FUNDS

8. Payment out of money lodged in court

- (1) Any money lodged in court may be paid out-
- (a) if the amount does not exceed \$250, in cash or by cheque;
 - (b) if the amount exceeds \$250, by cheque; or
 - (c) in respect of any amount, by payments made by the transfer of funds from the bank account of the court,

and any cheque or instructions to the bank for a transfer of funds shall be signed by 2 persons as may from time to time be authorized in writing by the Registrar. (L.N. 345 of 1980)

- (2) Payment out shall be made at the High Court on weekdays, except Saturdays and general holidays, between the hours of 10.00 a.m. and 1.00 p.m., and between the hours of 2.00 p.m. and 4.00 p.m. (25 of 1998 s. 2)

9. Ascertainment of sums by certificate of Registrar

When an order directs any sums to be ascertained by the certificate of the Registrar and to be afterwards paid in accordance therewith, such certificate shall be as nearly as may be in Form 4 in the Schedule and the Registrar shall on the request of the persons entitled to payment pay such sum in accordance with rule 8.

Remarks

10. Payment of costs

When an order directs payment out of a fund in court of any costs directed to be taxed, the Registrar shall-

- (a) state in his certificate the name and address of the person to whom such costs are payable, which certificate shall be as nearly as may be in Form 5 in the Schedule; and
- (b) on the request of the persons entitled to payment, pay such sum in accordance with rule 8.

11. Payment out, transfer, etc. of fund to personal representative of person entitled to payment

(1) When funds in court are by an order directed to be paid, transferred or delivered to any person named or described in an order or in a certificate of the Registrar (except to a person therein expressed to be entitled to such funds as trustee, executor or administrator, or otherwise than in his own right or for his own use), such funds or any portion thereof for the time being remaining unpaid or untransferred or undelivered may, unless the order otherwise directs, on proof of the death of such person whether on or after the date of such order or in the case of payment directed to be made to a creditor as such before the date of such order, be paid or transferred or delivered to the legal personal representatives of such deceased person or to the survivors of them.

(2) If no administration has been taken out to such deceased person who has died intestate and whose assets do not exceed the value of \$5000 including the amount of the funds directed to be so paid, transferred or delivered to him, such funds may be paid, transferred or delivered to the person who being widow, child, father, mother, brother or sister of the deceased would be entitled to take out administration to his estate upon a declaration by such person in Form 6 in the Schedule.

(3) When funds in court are by an order directed to be paid, transferred or delivered to any persons as legal personal representatives, such funds or any portion thereof for the time being remaining unpaid, untransferred or undelivered may, upon proof of the death of any of such representatives, whether on or after the date of such order be paid, transferred or delivered to the survivors of them.

(4) No funds shall under this rule be paid, transferred or delivered out of court to the legal personal representatives of any person under any probate or letters of administration purporting to be granted at any time subsequent to the expiration of 2 years from the date of the order directing such payment, transfer or delivery, or in case such funds consist of interest or dividends, from the date of the last receipt of such interest or dividends under such order.

Remarks

12. Order directing payment out, transfer etc. to describe person entitled to payment etc.

(1) Every order which directs funds in court to be paid, transferred or delivered out shall set forth in full the name of every person to whom such payment, transfer or delivery is to be made unless the name is to be stated in a certificate of the Registrar and in the case of payment to a firm, it shall be sufficient to state the business name of such firm.

(2) When money in court is by an order directed to be paid to any persons described in the order or in a certificate of the Registrar as co-partners, such money may be paid to any one or more of such co-partners or to the survivor of them.

13. Order directing investment of money lodged in court

(1) When money lodged in court is by an order directed to be invested, the party having the carriage of the order shall lodge with the Registrar a request in writing for the investment to be effected and the Registrar shall thereupon procure the investment of such money in the manner directed by the order.

(2) An order directing investment of money lodged in court shall set forth the name or the name of the office of the person in whose name such money is directed to be invested.

14. Order directing other dealings with money lodged in court

When money in court is by an order directed to be dealt with otherwise than by lodgment, withdrawal, transfer or investment, the party having the carriage of the order shall lodge with the Registrar a request in writing for the money to be dealt with in the terms of the order, and the Registrar shall thereupon act in accordance with such order.

15. Carrying over of funds to separate account

When funds in court are ordered to be carried over to a separate account, the title of the ledger credit to be opened for the purpose shall commence with the title of the cause or matter to which such funds are standing.

INVESTMENT OF FUNDS LODGED

16. Power of Registrar to invest funds

(1) The Registrar may, unless an order directs otherwise, invest any money lodged in court on any ledger credit in such manner as he thinks fit and may vary at any time such investments.

(2) Subject to paragraph (3), if the Registrar invests any money lodged in court on any ledger credit, any dividend or interest received on such investments, or any principal money received in respect thereof, by the Registrar shall be—

- (a) paid into the High Court Suitors' Funds Account; and (25 of 1998 s. 2)
- (b) placed in his books to the credit of the account in which the investments were standing when the dividend or interest became due or when the principal money was received.

(3) Unless an order directs otherwise and subject to ~~paragraph (3A)~~ **paragraphs (3A) and (3B)**, no interest shall be credited to any money lodged in court on any ledger credit if— (L.N. 274 of 1998)

Rule 2

- (a) such money is paid in court as security for costs or by way of satisfaction or amends or in compliance with an order giving leave to defend upon such payments;
- (b) the amount is less than \$7,500; (L.N. 274 of 1998)
- (c) such money is paid in court as watchmen's fees;
- (d) such money is paid in court as the proceeds of sale;
- (e) such money is paid in court by way of satisfaction of a judgment debt;
- (f) such money is paid in court in compliance with an order made under the Matrimonial Causes Ordinance (Cap. 179), the Matrimonial Proceedings and Property Ordinance (Cap. 192) or the Separation and Maintenance Orders Ordinance (Cap. 16); or (L.N. 274 of 1998)
- (g) (Repealed L.N. 274 of 1998)
- (h) such money is paid in court in any Admiralty proceedings under Order 75 of the Rules of the High Court (Cap. 4 sub. leg.). (25 of 1998 s. 2)

(3A) Where money is paid in court for any purpose referred to in paragraph (3)(a), interest shall be credited on the ledger credit for the relevant cause or matter, beginning 14 days after the money is paid in. (L.N. 274 of 1998)

(3B) Notwithstanding paragraph (3A), where money paid in court for any purpose referred to in paragraph (3)(a) is a sanctioned payment within the meaning of Order 22 of the Rules of the High Court (Cap. 4 sub. leg. A), interest shall be credited on the ledger credit for the relevant cause or matter, beginning 28 days after the money is paid in.

(4) Interest on any money lodged in court shall not be computed on a fraction of one dollar.

Remarks

(5) The Registrar shall not be required to apportion any amount of interest payable on money lodged in court on any ledger credit.

Note:

Please see the transitional provision in rule 2 of L.N. 274 of 1998.

17. Surplus income

The Registrar shall pay into the Treasury as soon as is practicable after the end of each financial year any sum standing in the High Court Suitors' Funds Account over and above the amounts required by these rules to be credited to the various accounts, and such sum shall be transferred into the general revenue of Hong Kong.

18. Cost of administrating Suitors' Funds Account

The cost of administrating the various accounts required to be kept under these rules shall be defrayed out of the general revenue of Hong Kong.

EVIDENCE OF LIFE, ETC.

19. Evidence by affidavit of life or fulfilment of condition

Where any person is entitled under an order to receive dividends or other periodical payments and the Registrar requires evidence of life or of the fulfilment of any conditions affecting such payments, such evidence shall be furnished by affidavit.

20. Evidence by affidavit or declaration of other matters

When, in carrying into effect the directions of an order, evidence is required by the Registrar for any purposes other than those included in rule 19, he may receive and act upon an affidavit or upon a statutory declaration, and every such affidavit or statutory declaration shall be filed in court when the Registrar shall consider it necessary.

MISCELLANEOUS

21. Certificate of description and amount of funds

(1) The Registrar, upon a request signed by or on behalf of a person claiming to be interested in any funds in court standing to the credit of any account specified in such request, shall, unless there is good reason for refusing, issue a certificate of the amount and description of such funds, and such certificate shall have reference to the morning of the day of the date thereof and shall not include the transactions of that day.

- (2) The Registrar shall notify on a certificate issued under paragraph (1)-
- (a) the dates of any charging order affecting or of any order restraining the transfer, sale, payment, delivery out or other dealing with the funds in court to the credit of the account specified in the certificate, in respect of which order he has received notice;
 - (b) whether such charging or restraining order affects principal or interest;
 - (c) the names of the persons to whom notice is to be given or in whose favour such charging or restraining order has been made.

(3) The Registrar may redate any certificate issued under paragraph (1) if no alteration in the amount or description of funds has been made since the issue of the certificate.

22. Transcript of accounts in Registrar's books

Upon a request signed by or on behalf of a person claiming to be interested in funds in court, the Registrar shall, unless there is good reason for refusing—

- (a) issue a transcript of the account in his books specified in such request; and
- (b) supply such other information or issue such certificates with respect to any transactions or dealings with funds in court as may from time to time be required in any particular case.

23. Transfer of unclaimed moneys in court

(1) When any sum of money remains unclaimed in the court for a period of 5 years, the Chief Justice may, on application by the Registrar of the High Court, order such sum to be transferred to the general revenue of Hong Kong. (25 of 1998 s. 2)

(2) Before making any such order under paragraph (1) the Chief Justice may direct that such notice, if any, as he thinks necessary shall be given and to such parties as he may think fit.

Remarks

24. Application of English procedures

In any case not provided for by these rules, the practice of the Paymaster General's Office for business of the Supreme Court of Judicature in England may be followed as nearly as the circumstances of the case will admit.

DISTRICT COURT SUITORS' FUNDS (AMENDMENT) RULES 2008

(Made by the Chief Judge under section 73 of the
District Court Ordinance (Cap. 336))

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of the Civil Justice (Miscellaneous Amendments) Ordinance 2008 (3 of 2008)

2. Power of Registrar to invest funds

The District Court Suitors' Funds Rules (Cap. 336 sub. leg. E) are amended, in rule 16 –

- (a) in paragraph (3), by adding "and subject to paragraphs (3A) and (3B)" after "directs otherwise";
- (b) by adding –
 - "(3A) Where money is paid in court for any purpose referred to in paragraph (3)(a), interest shall be credited on the ledger credit for the relevant cause or matter, beginning 14 days after the money is paid in.
 - (3B) Notwithstanding paragraph (3A), where money paid in court for any purpose referred to in paragraph (3)(a) is a sanctioned payment within the meaning of Order 22 of the Rules of the District Court (Cap. 336 sub. leg. H), interest shall be credited on the ledger credit for the relevant cause or matter, beginning 28 days after the money is paid in.";
- (c) in paragraph (4), by repealing "and (3)" and substituting ", (3), (3A) and (3B)".

Chief Judge

2008

Explanatory Note

Under rule 16(3)(a) of the District Court Suitors' Funds Rules (Cap. 336 sub. leg. E), no interest is to be credited to any money lodged in court if the money is paid in court as security for costs, or by way of satisfaction or amends, or in compliance with an order giving leave to defend upon the payment, unless an order of the District Court directs otherwise. These Rules amend rule 16 of the District Court Suitors' Funds Rules (Cap. 336 sub. leg. E) to provide that interest is to be credited as from the day beginning 14 days after the money is paid in. However, where the money so paid in court is an offer made by way of a payment into court in accordance with the new Order 22 of the Rules of the District Court (Cap. 336 sub. leg. H), interest is to be credited in respect of the payment as from the day beginning 28 days after the money is paid in.

DISTRICT COURT SUITORS' FUNDS (AMENDMENT) RULES 2007

DISTRICT COURT SUITORS' FUNDS RULES (Cap. 336E)

Remarks

CITATION AND INTERPRETATION

1. Citation

These rules may be cited as the District Court Suitors' Funds Rules.

2. Interpretation

In these rules, unless the context otherwise requires—

“Accountant” (會計師) means the Judiciary Accountant;

“court” (區域法院) means the District Court; (28 of 2000 s. 48)

“funds” (儲存金) or “funds in court” (法院儲存金) means any money or securities, movable property or any part thereof standing in or to be placed to the Registrar's account and includes boxes and other effects;

“ledger credit” (分類帳貸方) means the title of the cause or matter and the separate account (if any) opened or to be opened under an order or otherwise in the books of the Registrar to which any funds are credited or to be credited;

“lodge in court” (向法院交存) means pay or transfer into court or deposit in court, and “lodgment in court” (交存於法院) has a corresponding meaning;

“order” (命令) means an order of the District Court and includes a judgment or decree and includes the schedule or schedules to an order;

“Registrar” (司法常務官) means the Registrar of the District Court; (28 of 2000 s. 46)

“title of the cause or matter” (訟案或事宜的標題) means the short title of the cause or matter with reference to the record.

LODGMENT OF FUNDS IN COURT

3. Lodgment of funds

- (1) All funds to be lodged in court on any ledger credit shall, unless required by any enactment to be dealt with in any particular way, be lodged with the Registrar who shall give to the person making the lodgment a receipt in respect thereof.
- (2) When it is proposed to lodge in court any securities, movable property, boxes or other effects, the Registrar may make such inspection thereof as he thinks fit, before giving to the person making the lodgment a receipt in respect thereof.
- (3) Every receipt given in respect of any lodgment shall be headed with the title of the cause or matter and the title of the ledger account to which the lodgment is referable and shall contain adequate particulars as to such lodgment and shall be as nearly as may be in Form 1 in the Schedule.
- (4) Where money is lodged in satisfaction or part satisfaction of any claim either with or without defence setting up tender or denying liability or where the same is lodged to security for costs or under or on account of any judgment or order, the receipt shall contain a statement of such of the following circumstances as are applicable—
 - (a) paid in on behalf of defendant in satisfaction of claim of the above-named (name of party);
 - (b) paid in on behalf of defendant against claim of the above-named (name of party) with defence setting up tender;
 - (c) paid in on behalf of defendant against claim of the above-named (name of party) with defence denying liability;
 - (d) paid in under order dated the day of 19 ;
 - (e) paid in to security for costs account on behalf of (name of party);
 - (f) paid in on account of the judgment or order obtained by (name of party).
- (5) Where the funds lodged are money the Registrar shall pay the same to an account to be called the “District Court Suitors’ Funds Account” at such bank as the Director of Accounting Services shall direct.

(L.N. 16 of 1977)

4. Keeping of accounts and register

- (1) The Registrar shall—
 - (a) keep appropriate ledger accounts to which all funds lodged in court which are money or securities shall be credited and any such funds withdrawn or transferred therefrom shall be debited to such accounts;
 - (b) enter into such accounts in an appropriate manner the investment of any such funds lodged in court; and
 - (c) enter into such accounts in an appropriate manner any dealing, other

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than by way of lodgment, withdrawal, transfer or investment, of such funds as the circumstances of the case require.

- (2) The Registrar shall—
 - (a) keep a register of all funds lodged in court which are not money or securities;
 - (b) enter in the register any lodgment, withdrawal, transfer or other dealings of such funds; and
 - (c) for each entry in the register make a memorandum in the appropriate manner in the ledger accounts.

5. Annual statement of accounts

- (1) The Registrar shall cause to be prepared for every period of twelve months ending on the 31st day of March in each year a statement of the accounts kept under rule 4(1) which statement shall—
 - (a) include a receipts and payments account and a statement of assets and liabilities; and
 - (b) be signed by the Registrar.
- (2) (Repealed 32 of 2000 s. 23)

6. Shares and securities

- (1) All kinds of securities may be lodged in court.
- (2) Shares and securities issued by companies or corporations constituted under the laws of Hong Kong, such shares being fully paid up and free from all liability, may be transferred to the Registrar by his name of office. (25 of 1998 s. 2)
- (3) Other shares and securities may be placed in a box or packet and lodged with the Registrar, who shall, before taking custody of such box or packet, ensure that it is properly marked and secured and shall inspect the contents thereof in the presence of the person lodging the same.
- (4) When shares or securities are to be transferred into the name of the Registrar, the person lodging such shares or securities shall—
 - (a) execute a transfer thereof and shall obtain from the Registrar an authority which shall be as nearly as may be in Form 2 in the Schedule; and
 - (b) lodge such transfer together with the authority at the office of the company or corporation in whose books the securities are to be transferred.
- (5) A company or corporation at the office of which a transfer and authority under paragraph (4) has been lodged shall, after registering such transfer, forward

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to the Registrar a certificate that the securities have been transferred as authorized, which certificate shall be as nearly as may be in Form 3 in the Schedule.

(6) On receiving a certificate under paragraph (5) the Registrar shall give to the person making the lodgment his receipt in respect thereof.

7. Principal money and dividend in respect of securities to be placed in books

Any principal money or dividends received by the Registrar in respect of securities lodged in court shall be placed in his books, in the case of principal money to the credit to which the securities whereon such money arose were standing at the time of the receipt thereof, and in the case of dividends to the credit to which the securities whereon such dividends accrued were standing at the time of closing of the transfer books of such securities previously to the dividends becoming due.

**PAYMENT, DELIVERY AND TRANSFER OF FUNDS OUT OF COURT
AND OTHER DEALINGS WITH FUNDS**

8. Payment out of money lodged in court

- (1) Any money lodged in court may be paid out—
- (a) if the amount does not exceed \$250, in cash or by cheque;
 - (b) if the amount exceeds \$250, by cheque; or
 - (c) in respect of any amount, by payments made by the transfer of funds from the bank account of the court,

and any cheque or instructions to the bank for a transfer of funds shall be signed by 2 persons as may from time to time be authorized in writing by the Registrar. (L.N. 304 of 1979; L.N. 342 of 1980)

(2) Payment out shall be made at the District Court on weekdays, except Saturdays and general holidays, between the hours of 10.00 a.m. and 1.00 p.m., and between the hours of 2.00 p.m. and 4.00 p.m.

9. Payment out of fund of sums to be ascertained by certificate of Registrar

When an order directs any sums to be ascertained by the certificate of the Registrar and to be afterwards paid in accordance therewith, such certificate shall be as nearly as may be in Form 4 in the Schedule and the Registrar shall on the request of the persons entitled to payment pay such sum in accordance with rule 8.

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10. Payment of costs

When an order directs payment out of a fund in court of any costs directed to be taxed, the Registrar shall—

- (a) state in his certificate the name and address of the person to whom such costs are payable, which certificate shall be as nearly as may be in Form 5 in the Schedule; and
- (b) on the request of the persons entitled to payment, pay such sum in accordance with rule 8.

11. Payment out, transfer, etc. of fund to personal representative of person entitled to payment

(1) When funds in court are by an order directed to be paid, transferred or delivered to any person named or described in an order or in a certificate of the Registrar (except to a person therein expressed to be entitled to such funds as trustee, executor or administrator, or otherwise than in his own right or for his own use), such funds or any portion thereof for the time being remaining unpaid or untransferred or undelivered may, unless the order otherwise directs, on proof of the death of such person whether on or after the date of such order or in the case of payment directed to be made to a creditor as such before the date of such order, be paid or transferred or delivered to the legal personal representatives of such deceased person or to the survivors of them.

(2) If no administration has been taken out to such deceased person who has died intestate and whose assets do not exceed the value of \$5,000 including the amount of the funds directed to be so paid, transferred or delivered to him, such funds may be paid, transferred or delivered to the person who being widow, child, father, mother, brother or sister of the deceased would be entitled to take out administration to his estate upon a declaration by such person in Form 6 in the Schedule.

(3) When funds in court are by an order directed to be paid, transferred or delivered to any persons as legal personal representatives, such funds or any portion thereof for the time being remaining unpaid, untransferred or undelivered may, upon proof of the death of any of such representatives, whether on or after the date of such order be paid, transferred or delivered to the survivors of them.

(4) No funds shall under this rule be paid, transferred or delivered out of court to the legal personal representatives of any person under any probate or letters of administration purporting to be granted at any time subsequent to the expiration of two years from the date of the order directing such payment, transfer or delivery, or in case such funds consist of interest or dividends, from the date of the last receipt of such interest or dividends under such order.

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12. Order directing payment out, transfer etc. to describe person entitled to payment etc.

(1) Every order which directs funds in court to be paid, transferred or delivered out shall set forth in full the name of every person to whom such payment, transfer or delivery is to be made unless the name is to be stated in a certificate of the Registrar and in the case of payment to a firm, it shall be sufficient to state the business name of such firm.

(2) When money in court is by an order directed to be paid to any persons described in the order or in a certificate of the Registrar as co-partners, such money may be paid to any one or more of such co-partners or to the survivor of them.

13. Order directing investment of money lodged in court

(1) When money lodged in court is by an order directed to be invested, the party having the carriage of the order shall lodge with the Registrar a request in writing for the investment to be effected and the Registrar shall thereupon procure the investment of such money in the manner directed by the order.

(2) An order directing investment of money lodged in court shall set forth the name or the name of the office of the person in whose name such money is directed to be invested.

14. Order directing other dealings with money lodged in court

When money in court is by an order directed to be dealt with otherwise than by lodgment, withdrawal, transfer or investment, the party having the carriage of the order shall lodge with the Registrar a request in writing for the money to be dealt with in the terms of the order, and the Registrar shall thereupon act in accordance with such order.

15. Carrying over of funds to separate account

When funds in court are ordered to be carried over to a separate account, the title of the ledger credit to be opened for the purpose shall commence with the title of the cause or matter to which such funds are standing.

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INVESTMENT OF FUNDS LODGED

16. Power of Registrar to invest funds

(1) The Registrar may, unless an order directs otherwise, invest any money lodged in court on any ledger credit in such manner as he thinks fit and may vary at any time such investments.

(2) Subject to paragraph (3), if the Registrar invests any money lodged in court on any ledger credit, any dividend or interest received on such investments, or any principal money received in respect thereof, by the Registrar shall be—

- (a) paid into the District Court Suitors' Funds Account; and
- (b) placed in his books to the credit of the account in which the investments were standing when the dividend or interest became due or when the principal money was received.

(3) Unless an order directs otherwise **and subject to paragraphs (3A) and (3B)**, no interest shall be credited to any money lodged in court on any ledger credit if—

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- (a) such money is paid in court as security for costs or by way of satisfaction or amends or in compliance with an order giving leave to defend upon such payments;
- (b) the amount is less than \$2,500;
- (c) such money is paid in court as watchmen's fees;
- (d) such money is paid in court as the proceeds of sale;
- (e) such money is paid in court by way of satisfaction of a judgment debt;
- (f) such money is paid in court in compliance with an order made under the Matrimonial Causes Ordinance (Cap. 179), the Matrimonial Proceedings and Property Ordinance (Cap. 192), the Separation and Maintenance Orders Ordinance (Cap. 16), the Affiliation Proceedings Ordinance (Cap. 183), the Maintenance Orders (Reciprocal Enforcement) Ordinance (Cap. 188) or the Guardianship Of Minors Ordinance (Cap. 13); or
- (g) such money is paid in court in respect of bail. (L.N. 304 of 1979)

(3A) Where money is paid in court for any purpose referred to in paragraph (3)(a), interest shall be credited on the ledger credit for the relevant cause or matter, beginning 14 days after the money is paid in.

(3B) Notwithstanding paragraph (3A), where money paid in court for any purpose referred to in paragraph (3)(a) is a sanctioned payment within the meaning of Order 22 of the Rules of the District Court (Cap. 336 sub. leg. H), interest shall be credited on the ledger credit for the relevant cause or matter, beginning 28 days after the money is paid in.

(4) Notwithstanding paragraphs (1), (2) ~~and (3)~~, **(3A) and (3B)** and unless an order directs otherwise, the Registrar shall—

- (a) invest any money lodged in court on any ledger credit as compensation

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payable under the Employees' Compensation Ordinance (Cap. 282), in such manner as he thinks fit; and

- (b) place any dividend or interest (whether simple or compound) received on such investments, or any principal money received in respect thereof, to the credit of the account in which the investments were standing when such dividend or interest became due or when the principal money was received.

(5) Interest on any money lodged in court shall not be computed on a fraction of one dollar.

(6) The Registrar shall not be required to apportion any amount of interest payable or money lodged in court on any ledger credit.

17. Surplus income

The Registrar shall pay into the Treasury as soon as is practicable after the end of each financial year any sum standing in the District Court Suitors' Funds Account over and above the amounts required by these rules to be credited to the various accounts, and such sum shall be transferred into the general revenue of Hong Kong.

18. Cost of administrating Suitors' Funds Account

The cost of administrating the various accounts required to be kept under these rules shall be defrayed out of the general revenue of Hong Kong.

EVIDENCE OF LIFE, ETC.

19. Evidence by affidavit of life or fulfilment of condition

Where any person is entitled under an order to receive dividends or other periodical payments and the Registrar requires evidence of life or of the fulfilment of any conditions affecting such payments, such evidence shall be furnished by affidavit.

20. Evidence by affidavit or declaration of other matters

When, in carrying into effect the directions of an order, evidence is required by the Registrar for any purposes other than those included in rule 19, he may receive and act upon an affidavit or upon a statutory declaration, and every such affidavit or statutory declaration shall be filed in court when the Registrar shall consider it necessary.

MISCELLANEOUS

21. Certificate of description and amount of funds

(1) The Registrar, upon a request signed by or on behalf of a person claiming to be interested in any funds in court standing to the credit of any account specified in such request, shall, unless there is good reason for refusing, issue a certificate of the amount and description of such funds, and such certificate shall have reference to the morning of the day of the date thereof and shall not include the transactions of that day.

- (2) The Registrar shall notify on a certificate issued under paragraph (1)—
- (a) the dates of any charging order affecting or of any order restraining the transfer, sale, payment, delivery out or other dealing with the funds in court to the credit of the account specified in the certificate, in respect of which order he has received notice;
 - (b) whether such charging or restraining order affect principal or interest;
 - (c) the names of the persons to whom notice is to be given or in whose favour such charging or restraining order has been made.

(3) The Registrar may redate any certificate issued under paragraph (1) if no alteration in the amount or description of funds has been made since the issue of the certificate.

22. Transcript of accounts in Registrar's books

Upon a request signed by or on behalf of a person claiming to be interested in funds in court, the Registrar shall, unless there is good reason for refusing—

- (a) issue a transcript of the account in his books specified in such request; and
- (b) supply such other information or issue such certificates with respect to any transactions or dealings with funds in court as may from time to time be required in any particular case.

23. (Repealed 25 of 1998 s. 2)