

L.N. 153 of 2008

RULES OF THE DISTRICT COURT (AMENDMENT) RULES 2008

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RULES OF THE DISTRICT COURT (AMENDMENT) RULES 2008

(Made by the District Court Rules Committee
under sections 72, 72A, 72B, 72C, 72CA,
72D and 72E of the District Court
Ordinance (Cap. 336))

PART 1**PRELIMINARY****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).

PART 2**OBJECTIVES AND CASE MANAGEMENT POWERS****Recommendations 2, 3, 4, 81 and 82****2. Definitions**

Order 1, rule 4(1) of the Rules of the District Court (Cap. 336 sub. leg. H) is amended by adding—

“ “practice direction” (實務指示) 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;”.

3. Orders added

The following are added immediately after Order 1—

“ORDER 1A**OBJECTIVES****1. Underlying objectives (O. 1A, r. 1)**

The underlying objectives of these Rules are—

- (a) to increase the cost-effectiveness of any practice and procedure to be followed in relation to proceedings before the Court;
- (b) to ensure that a case is dealt with as expeditiously as is reasonably practicable;
- (c) to promote a sense of reasonable proportion and procedural economy in the conduct of proceedings;
- (d) to ensure fairness between the parties;
- (e) to facilitate the settlement of disputes; and
- (f) to ensure that the resources of the Court are distributed fairly.

2. Application by the Court of underlying objectives (O. 1A, r. 2)

(1) The Court shall seek to give effect to the underlying objectives of these Rules when it—

- (a) exercises any of its powers (whether under its inherent jurisdiction or given to it by these Rules or otherwise); or
- (b) interprets any of these Rules or a practice direction.

(2) In giving effect to the underlying objectives of these Rules, the Court shall always recognize that the primary aim in exercising the powers of the Court is to secure the just resolution of disputes in accordance with the substantive rights of the parties.

3. Duty of the parties and their legal representatives (O. 1A, r. 3)

The parties to any proceedings and their legal representatives shall assist the Court to further the underlying objectives of these Rules.

4. Court's duty to manage cases (O. 1A, r. 4)

(1) The Court shall further the underlying objectives of these Rules by actively managing cases.

(2) Active case management includes—

- (a) encouraging the parties to co-operate with each other in the conduct of the proceedings;
- (b) identifying the issues at an early stage;
- (c) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;
- (d) deciding the order in which the issues are to be resolved;

- (e) encouraging the parties to use an alternative dispute resolution procedure if the Court considers that appropriate, and facilitating the use of such a procedure;
- (f) helping the parties to settle the whole or part of the case;
- (g) fixing timetables or otherwise controlling the progress of the case;
- (h) considering whether the likely benefits of taking a particular step justify the cost of taking it;
- (i) dealing with as many aspects of the case as practicable on the same occasion;
- (j) dealing with the case without the parties needing to attend at court;
- (k) making use of technology; and
- (l) giving directions to ensure that the trial of a case proceeds quickly and efficiently.

ORDER 1B

CASE MANAGEMENT POWERS

1. Court's general powers of management (O. 1B, r. 1)

(1) The list of powers in this rule is in addition to and not in substitution for any powers given to the Court by any other rule or practice direction or by any other enactment or any powers it may otherwise have.

(2) Except where these Rules provide otherwise, the Court may by order—

- (a) extend or shorten the time for compliance with any rule, court order or practice direction (even if an application for extension is made after the time for compliance has expired);
- (b) adjourn or bring forward a hearing;
- (c) require a party or a party's legal representative to attend the Court;
- (d) direct that part of any proceedings (such as a counterclaim) be dealt with as separate proceedings;
- (e) stay the whole or part of any proceedings or judgment either generally or until a specified date or event;
- (f) consolidate proceedings;
- (g) try two or more claims on the same occasion;

- (h) direct a separate trial of any issue;
 - (i) decide the order in which issues are to be tried;
 - (j) exclude an issue from consideration;
 - (k) dismiss or give judgment on a claim after a decision on a preliminary issue;
 - (l) take any other step or make any other order for the purpose of managing the case and furthering the underlying objectives set out in Order 1A.
- (3) When the Court makes an order, it may—
- (a) make it subject to conditions, including a condition to pay a sum of money into court; and
 - (b) specify the consequences of failure to comply with the order or a condition.
- (4) Where a party pays money into court following an order under paragraph (3), the money is security for any sum payable by that party to any other party in the proceedings.

2. Court's power to make order of its own motion (O. 1B, r. 2)

- (1) Except where a rule or some other enactment provides otherwise, the Court may exercise its powers on an application or of its own motion.
- (2) Where the Court proposes to make an order of its own motion—
- (a) it may give any person likely to be affected by the order an opportunity to make representations; and
 - (b) where it does so, it shall specify the time by and the manner in which the representations must be made.
- (3) Where the Court proposes—
- (a) to make an order of its own motion; and
 - (b) to hold a hearing to decide whether to make the order,
- it shall give each party likely to be affected by the order at least 3 days' notice of the hearing.
- (4) The Court may make an order of its own motion, without hearing the parties or giving them an opportunity to make representations.
- (5) Where the Court has made an order under paragraph (4)—
- (a) a party affected by the order may apply to have it set aside, varied or stayed; and
 - (b) the order must contain a statement of the right to make such an application.

- (6) An application under paragraph (5)(a) must be made—
- (a) within such period as may be specified by the Court; or
 - (b) if the Court does not specify a period, not more than 14 days after the date on which notice of the order was sent to the party making the application.

3. Court's power to give procedural directions by way of order nisi
(O. 1B, r. 3)

(1) Where the Court considers that it is necessary or desirable to give a direction on the procedure of the Court and that the direction is unlikely to be objected to by the parties, it may of its own motion and without hearing the parties, give the direction by way of an order nisi.

(2) The order nisi becomes absolute 14 days after the order is made unless a party has applied to the Court for varying the order.”.

PART 3

NON-COMPLIANCE WITH RULES AND COURT ORDERS

Recommendation 84

4. Rules added

Order 2 is amended by adding—

“3. Non-compliance with rules and court orders (O. 2, r. 3)

(1) The Court may order a party to pay a sum of money into court if that party has, without good reason, failed to comply with a rule or court order.

(2) When exercising its power under paragraph (1), the Court shall have regard to—

- (a) the amount in dispute; and
- (b) the costs which the parties have incurred or which they may incur.

(3) Where a party pays money into court following an order under paragraph (1), the money is security for any sum payable by that party to any other party in the proceedings.

4. Sanctions have effect unless defaulting party obtains relief (O. 2, r. 4)

Where a party has failed to comply with a rule or court order, any sanction for failure to comply imposed by the rule or court order has effect unless the party in default applies to the Court for and obtains relief from the sanction within 14 days of the failure.

5. Relief from sanctions (O. 2, r. 5)

(1) On an application for relief from any sanction imposed for a failure to comply with any rule or court order, the Court shall consider all the circumstances including—

- (a) the interests of the administration of justice;
- (b) whether the application for relief has been made promptly;
- (c) whether the failure to comply was intentional;
- (d) whether there is a good explanation for the failure to comply;
- (e) the extent to which the party in default has complied with other rules and court orders;
- (f) whether the failure to comply was caused by the party in default or his legal representative;
- (g) in the case where the party in default is not legally represented, whether he was unaware of the rule or court order, or if he was aware of it, whether he was able to comply with it without legal assistance;
- (h) whether the trial date or the likely trial date can still be met if relief is granted;
- (i) the effect which the failure to comply had on each party; and
- (j) the effect which the granting of relief would have on each party.

(2) An application for relief must be supported by evidence.”.

PART 4

COSTS-ONLY PROCEEDINGS

Recommendation 9

5. Service of originating summons

Order 10, rule 5 is amended by repealing “in Appendix A” and substituting “or 15A in Appendix A, whichever is appropriate”.

6. Principal cases in which service of writ out of jurisdiction is permissible

Order 11, rule 1(1) is amended by adding—

“(o) the claim is for an order for the costs of and incidental to a dispute under section 53A(2) of the Ordinance;”.

7. Acknowledgment of service

Order 12, rule 3(1) is amended by repealing “or 15” and substituting “, 15 or 15A”.

8. Application

Order 62, rule 2(4) is amended by repealing everything before “and under the enactments” and substituting—

“(4) The powers and discretion of the Court as to costs under sections 53 and 53A of the Ordinance”.

9. Rule added

Order 62 is amended by adding immediately after rule 11—

“11A. Commencement of costs-only proceedings (O. 62, r. 11A)

(1) Proceedings under section 53A(2) of the Ordinance may be commenced by originating summons in Form No. 10 in Appendix A.

(2) The originating summons must be accompanied by—

(a) an affidavit exhibiting the agreement referred to in section 53A(1) of the Ordinance; and

(b) the plaintiff’s bill of costs or statement of costs.

(3) An acknowledgment of service of the originating summons must be in Form No. 15A in Appendix A.

(4) A master may make a summary assessment of or an order for taxation of the costs that are the subject matter of the proceedings commenced in accordance with paragraph (1).

(5) Orders 13A, 22 and 27 and Order 28, rules 1A, 4(3) to (5) and 7 to 9 do not apply in relation to the proceedings commenced in accordance with paragraph (1) unless otherwise directed by the Court.”.

10. Powers of taxing masters to tax costs

Order 62, rule 12 is amended—

- (a) in paragraph (a), by repealing “costs of or arising out of any cause or matter in the Court; and” and substituting “costs of or incidental to any proceedings in the Court;”;
- (b) by adding—
 - “(b) the costs that are the subject matter of the proceedings commenced in accordance with rule 11A(1); and”.

11. Forms

(1) Appendix A is amended in Form No. 10, by adding “; Order 62 rule 11A” after “Order 17 rule 3” appearing in parentheses immediately under the heading.

(2) Appendix A is amended in Form No. 15 by repealing the heading and substituting—

**“Acknowledgment of Service of Originating
Summons—for all cases other than
costs-only proceedings under
section 53A of the District
Court Ordinance”.**

(3) Appendix A is amended by adding—

“No. 15A

**Acknowledgment of Service of Originating Summons—
for costs-only proceedings under section 53A
of the District Court Ordinance**

(Order 10 rule 5; Order 12 rule 3(1); Order 62 rule 11A)

Directions for Acknowledgment of Service

The accompanying form of ACKNOWLEDGMENT OF SERVICE should be detached and completed by a solicitor acting on behalf of the defendant or by the defendant if acting in person. After completion it must be delivered or sent by post to the Registry of the District Court of the following address—

[insert here the address of the Registry of the District Court]

See over for Notes for Guidance

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Notes for Guidance

[As in No. 14 substituting “originating summons” for “writ of summons”.]

(Heading as in No. 8 or 10 to be completed by plaintiff)

**ACKNOWLEDGMENT OF SERVICE
OF ORIGINATING SUMMONS**

If you intend to instruct a solicitor to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

See Notes 1,
3, 4 and 5.

1. State the full name of the defendant by whom or on whose behalf the service of the originating summons is being acknowledged.

2. State whether the defendant intends to contest the liability for costs (tick appropriate box)

yes

no

3. State whether the defendant intends to contest the amount of those costs (tick appropriate box)

yes

no

Service of the originating summons is acknowledged accordingly.

Where words appear between square brackets, delete if inapplicable.

(Signed) [Solicitor] ()
[Defendant in person]
Address for service

Notes as to Address for Service

Solicitor. Where the defendant is represented by a solicitor, state the solicitor's place of business in Hong Kong.

Defendant in person. Where the defendant is acting in person, he must state his residence OR, if he does not reside in Hong Kong, he must state an address in Hong Kong to which communications for him should be sent. In the case of a limited company, "residence" (居所) means its registered or principal office.

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Indorsement by plaintiff's solicitors (or by plaintiff if suing in person) of his name, address and reference, if any."

PART 5

COMMENCEMENT OF PROCEEDINGS

Recommendations 11 to 16

12. Definitions

Order 1, rule 4(1) is amended by adding—

“ “Amendment Rules 2008” (《2008年修訂規則》) means the Rules of the District Court (Amendment) Rules 2008 (L.N. 153 of 2008);”.

13. Non-compliance with Rules

Order 2, rule 1(3) is repealed and the following substituted—

“(3) The Court shall not wholly set aside any proceedings or the writ or other originating process by which they were begun on the ground that the proceedings ought to have begun by an originating process other than the one employed, but shall instead give directions for the continuation of the proceedings in an appropriate manner.”.

14. Rules repealed

Order 5, rules 2 and 3 are repealed.

15. Proceedings which may be begun by writ or originating summons

Order 5, rule 4(1) is repealed and the following substituted—

“(1) Except in the case of proceedings which under any written law are required or authorized to be begun by a specific form of originating process, proceedings may be begun either by writ or by originating summons as the plaintiff considers appropriate.”.

16. Rule added

Order 5 is amended by adding—

“5. Proceedings to be begun by motion or petition (O. 5, r. 5)

Proceedings may be begun by originating motion or petition if, but only if, under any written law the proceedings in question are required or authorized to be so begun.”.

17. Form of summons, etc.

Order 7, rule 2 is amended by adding—

“(1A) Form No. 8 in Appendix A is to be used in all cases except where another form is prescribed under a written law or there is no party on whom the summons is to be served.

(1B) Form No. 10 in Appendix A is to be used if it is prescribed under a written law.

(1C) Form No. 11 in Appendix A is to be used if there is no party on whom the summons is to be served.”.

18. Ex parte originating summons

Order 7, rule 7(1) is amended by adding “and (1C)” after “Rules 2(1)”.

19. Orders added

The following are added immediately after Order 7—

“ORDER 8**ORIGINATING AND OTHER MOTIONS: GENERAL PROVISIONS****1. Application (O. 8, r. 1)**

The provisions of this Order apply to all motions required or authorized under a written law, subject to any provisions relating to any class of motion made by that written law or any other written law.

2. Notice of motion (O. 8, r. 2)

(1) Except where an application by motion may properly be made ex parte, no motion shall be made without previous notice to the parties

affected thereby, but the Court, if satisfied that the delay caused by proceeding in the ordinary way would or might entail irreparable or serious mischief, may make an order *ex parte*—

(a) on such terms as to costs or otherwise; and

(b) subject to such undertaking, if any, as it thinks just.

(2) Any party affected by an order made under paragraph (1) may apply to the Court to set it aside.

(3) Unless the Court gives leave to the contrary, there must be at least 2 clear days between the service of notice of a motion and the day named in the notice for hearing the motion.

3. Form and issue of notice of motion

(O. 8, r. 3)

(1) The notice of an originating motion must be in Form No. 13 in Appendix A and the notice of any other motion in Form No. 38 in that Appendix.

(2) Where leave has been given under rule 2(3) to serve short notice of motion, that fact must be stated in the notice.

(3) The notice of a motion must include a concise statement of the nature of the claim made or the relief or remedy required.

(4) Order 6, rule 5, with the necessary modifications, applies in relation to notice of an originating motion as it applies in relation to a writ.

(5) The notice of an originating motion by which proceedings are begun must be issued out of the Registry.

(6) Issue of the notice of an originating motion takes place upon its being sealed by an officer of the Registry.

4. Service of notice of motion with writ, etc. (O. 8, r. 4)

Notice of a motion to be made in an action may be served by the plaintiff on the defendant with the writ of summons or originating summons or at any time after service of the writ or summons, whether or not the defendant has acknowledged service in the action.

5. Adjournment of hearing (O. 8, r. 5)

The hearing of any motion may be adjourned from time to time on such terms, if any, as the Court thinks fit.

ORDER 9

PETITIONS: GENERAL PROVISIONS

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

The provisions of this Order apply to all petitions required or authorized under a written law, subject to any provisions relating to any class of petition made by that written law or any other written law.

2. Contents of petition (O. 9, r. 2)

(1) A petition must include a concise statement of the nature of the claim made or the relief or remedy required in the proceedings begun by the petition.

(2) A petition must include at the end of it—

(a) a statement of the names of the persons, if any, required to be served with the petition; or

(b) if no person is required to be served, a statement to that effect.

(3) Order 6, rule 5, with the necessary modifications, applies in relation to a petition as it applies in relation to a writ.

3. Presentation of petition (O. 9, r. 3)

A petition may be presented by leaving it at the Registry.

4. Fixing time for hearing petition

(O. 9, r. 4)

(1) A day and time for the hearing of a petition which is required to be heard shall be fixed by the Registrar.

(2) Unless the Court otherwise directs, a petition which is required to be served on any person must be served on him not less than seven days before the day fixed for the hearing of the petition.

5. Certain applications not to be made by petition (O. 9, r. 5)

No application in any cause or matter may be made by petition.”

20. Service of originating summons, etc.

Order 11, rule 9 is amended—

- (a) in paragraph (1), by repealing “originating summons” and substituting “originating summons, notice of motion or petition”;
- (b) in paragraph (4), by repealing “or originating summons” and substituting “, originating summons, motion or petition”.

21. Mode of application

Order 17, rule 3(1) is amended by repealing “must be made” where it first appears and substituting “may be made”.

22. Amendment of originating summons

Order 20, rule 7 is amended—

- (a) in the heading, by adding “, etc.” after “**summons**”;
- (b) by adding “, a petition and an originating notice or motion” after “originating summons”.

23. Rule added

Order 28 is amended by adding—

“3A. Originating summons to be heard in open court (O. 28, r. 3A)

An originating summons must be heard in open court unless the Court otherwise directs.”.

24. Application for receiver and injunction

Order 30, rule 1(1) is amended by repealing “shall be” and substituting “may be”.

25. Evidence by affidavit

Order 38, rule 2(3) is amended—

- (a) by adding “, originating motion or petition,” after “originating summons”;
- (b) by repealing “interlocutory application” and substituting “application made by summons or motion”.

26. Order prohibiting transfer, etc., of securities

Order 50, rule 15 is amended—

- (a) in paragraph (2), by repealing “by originating summons in Form No. 10 in Appendix A” and substituting “by summons”;
- (b) by adding—
 - “(2A) An originating summons under this rule must be in Form No. 10 in Appendix A.”.

27. When order for taxation of costs not required

Order 62, rule 11(1) is amended—

- (a) by adding “, petition” after “Where an action”;
- (b) by adding “or a motion is refused with costs,” after “dismissed with costs,”.

28. Appointment of next friend or guardian ad litem

Order 80, rule 3(6)(c) is amended by repealing “summons” and substituting “petition, summons or motion”.

29. Approval of settlement

Order 80, rule 11(1) is amended by repealing “, notwithstanding anything in Order 5, rule 2,”.

30. Service of certain documents on person under disability

Order 80, rule 16(4) is amended by repealing “an originating summons” and substituting “a notice of motion or summons”.

31. Commencement of money lender's action

Order 83A, rule 2(1) is amended by repealing "shall be" and substituting "may be".

32. Determination of questions as to property

Order 89, rule 1(1) is amended by repealing "must be" and substituting "may be".

**33. Applications under Guardianship
of Minors Ordinance and Parent
and Child Ordinance**

Order 90, rule 1(1) is amended by repealing "must be" and substituting "may be".

34. Forms

(1) Appendix A is amended in Form No. 10, by adding "; Order 50 rule 15" after "Order 17 rule 3".

(2) Appendix A is amended by adding after Form No. 12—

“No. 13

Notice of originating motion

(Order 8 rule 3)

20, No.

IN THE DISTRICT COURT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

In the matter of

and

In the matter of

Take notice that the District Court in Hong Kong will be moved (before His/Her Honour Judge) at the expiration of days from the service upon you of this notice (or on day, the day of 20, at the sitting of the Court) or so soon thereafter as counsel can be heard, by counsel on behalf of *A.B.* for an order that (or for the following relief, namely)

And that the costs of and incidental to this (application) (appeal) may be paid by (And further take notice that the grounds of this (application) (appeal) are:)

Dated the day of 20

(Signed)

C.D. of solicitor for the above named (applicant) (appellant) *A.B.* whose address is
or *A.B.* whose address for service is
(applicant)(appellant) in person

To of ”.

(3) Appendix A is amended by adding after Form No. 32—

“No. 38

Notice of motion

(Order 8 rule 3)

(Heading as in cause or matter)

Take notice that (pursuant to the leave of given on the day of 20) the Court (or Judge) will be moved the day of 20 at o'clock, or so soon thereafter as counsel can be heard, by (Mr. of) counsel for the above-named plaintiff (or defendant) that and that the costs of the application be

Dated the day of 20

(Signed)
of
Solicitor for

To

Solicitor for

PART 6

DISPUTE AS TO JURISDICTION

Recommendation 17

35. Dispute as to jurisdiction

Order 12, rule 8 is amended—

(a) in paragraph (1), by adding—
“(ga) an order staying the proceedings; or”;

(b) by adding—
“(2) A defendant who wishes to argue that the Court should not exercise its jurisdiction in the proceedings on one or more of the grounds specified in paragraph (2A) or on any other ground shall also give notice of intention to defend the proceedings and shall, within the time limited for service of a defence, apply to the Court for—

- (a) a declaration that in the circumstances of the case the Court should not exercise any jurisdiction it may have; or
 - (b) an order staying the proceedings; or
 - (c) such other relief as may be appropriate, including the relief specified in paragraph (1)(e) or (f).
- (2A) The grounds specified for the purposes of paragraph (2) are that—
- (a) considering the best interests and convenience of the parties to the proceedings and the witnesses in the proceedings, the proceedings should be conducted in another court;
 - (b) the defendant is entitled to rely on an agreement to which the plaintiff is a party, excluding the jurisdiction of the Court; and
 - (c) in respect of the same cause of action to which the proceedings relate, there are other proceedings pending between the defendant and the plaintiff in another court.”;
- (c) in paragraph (3), by adding “or (2)” after “paragraph (1)”;
 - (d) in paragraph (4), by adding “or (2)” after “paragraph (1)”;
 - (e) in paragraph (5), by adding “or (2)” after “paragraph (1)”;
 - (f) in paragraph (6)—
 - (i) by adding “or (2)” after “paragraph (1)”;
 - (ii) by repealing everything after “to defend the action;” and substituting “but if the Court makes no order on the application or dismisses it, the notice shall stand unless otherwise directed by the Court and the defendant shall be treated as having given notice of intention to defend the action.”;
 - (g) by adding—
 - “(6A) If the Court makes no order on an application under paragraph (1) or (2) or dismisses it, it may give such directions as may be appropriate for service of a defence and the further conduct of the proceedings.”;
 - (h) in paragraph (7), by adding “or (2)” after “paragraph (1)”.

36. Rule added

Order 12 is amended by adding—

“11. Transitional provision relating to rule 35 of Amendment Rules 2008 (O. 12, r. 11)

Where an application under rule 8(1) is pending immediately before the commencement of the Amendment Rules 2008, then the application is to be determined as if rule 35 of the Amendment Rules 2008 had not been made.”.

37. Service of defence

Order 18, rule 2(3) is amended by adding “or (2)” after “rule 8(1)”.

38. Forms

(1) Appendix A is amended in Form No. 14, under the sub-heading “*Directions for Acknowledgment of Service*”, by adding—

“4. A Defendant who wishes to dispute the jurisdiction of the District Court in the proceedings or to argue that the District Court should not exercise its jurisdiction in the proceedings, and wishes to apply to the District Court for an order staying the proceedings, must give notice of intention to defend the proceedings and make the application within the time limited for service of a defence.”.

(2) Appendix A is amended in Form No. 15, under the sub-heading “*Directions for Acknowledgment of Service*”, by adding—

“3. A Defendant who wishes to dispute the jurisdiction of the District Court in the proceedings or to argue that the District Court should not exercise its jurisdiction in the proceedings, and wishes to apply to the District Court for an order staying the proceedings, must give notice of intention to defend the proceedings and make the application within the time limited for service of a defence.”.

PART 7

DEFAULT JUDGMENTS AND ADMISSIONS

Recommendation 18

39. Indorsement of claim

Order 6, rule 2 is amended—

- (a) in subparagraph (b), by repealing the full stop and substituting “; and”;
- (b) by adding—
 - “(c) where the only remedy that the plaintiff is seeking is the payment of money, with a statement that the defendant may make an admission in accordance with Order 13A within the period fixed for service of his defence.”.

40. Order added

The following is added—

“ORDER 13A

ADMISSIONS IN CLAIMS FOR PAYMENT OF MONEY

1. Interpretation (O. 13A, r. 1)

- (1) In this Order—
“claim” (申索) means—
 - (a) where in an action the plaintiff makes only one claim, that claim; and
 - (b) where in an action the plaintiff makes more than one claim, all the claims in the action.
- (2) For the purposes of rules 6(1)(b) and 7(1)(b), the amount of a claim is treated as unliquidated if the claim consists of a claim for a liquidated amount of money and a claim for an unliquidated amount of money.

2. Making an admission (O. 13A, r. 2)

- (1) Where the only remedy that a plaintiff is seeking is the payment of money, the defendant may make an admission in accordance with—
 - (a) rule 4 (admission of whole of claim for liquidated amount of money);
 - (b) rule 5 (admission of part of claim for liquidated amount of money);
 - (c) rule 6 (admission of liability to pay whole of claim for unliquidated amount of money); or
 - (d) rule 7 (admission of liability to pay claim for unliquidated amount of money where defendant offers a sum in satisfaction of the claim).

(2) Where the defendant makes an admission as mentioned in paragraph (1), the plaintiff may enter judgment except where—

- (a) the defendant is a person under disability; or
- (b) the plaintiff is a person under disability and the admission is made under rule 5 or 7.

(3) The Court may allow a party to amend or withdraw an admission if the Court considers it just to do so having regard to all the circumstances of the case.

(4) In this rule, “person under disability” (無行為能力的人) has the meaning assigned to it in Order 80, rule 1.

3. Period for making admission

(O. 13A, r. 3)

(1) The period for filing and serving an admission under rule 4, 5, 6 or 7 is—

- (a) where the defendant is served with a writ, the period fixed by or under these Rules for service of his defence;
- (b) where the defendant is served with an originating summons, the period fixed by or under these Rules for filing of his affidavit evidence; and
- (c) in any other case, 14 days after service of the originating process.

(2) A defendant may file an admission under rule 4, 5, 6 or 7—

- (a) after the expiry of the period for filing it specified in paragraph (1)(a) if the plaintiff has not obtained a default judgment under Order 13 or 19; and
- (b) after the expiry of the period for filing it specified in paragraph (1)(b) if the admission is filed and served before the date or the period fixed under Order 28, rule 2 for the hearing of the originating summons.

(3) If the defendant files an admission under paragraph (2), this Order applies as if he had made the admission specified in paragraph (1)(a) or (b), as the case may be.

4. Admission of whole of claim for liquidated amount of money

(O. 13A, r. 4)

(1) This rule applies where—

- (a) the only remedy that the plaintiff is seeking is the payment of a liquidated amount of money; and
- (b) the defendant admits the whole of the claim.

- (2) The defendant may admit the claim by—
 - (a) filing in the Registry an admission in Form No. 16 in Appendix A; and
 - (b) serving a copy of the admission on the plaintiff.
- (3) The plaintiff may obtain judgment by filing in the Registry a request in Form No. 16A in Appendix A and, if he does so—
 - (a) where the defendant has not requested time to pay, paragraphs (5), (6) and (7) apply;
 - (b) where the defendant has requested time to pay, rule 9 applies.
- (4) If the plaintiff does not file a request for judgment within 14 days after the copy of the admission is served on him, the claim is stayed until he files the request.
- (5) The plaintiff may specify in his request for judgment—
 - (a) the date by which the whole of the judgment debt is to be paid; or
 - (b) the times and rate at which it is to be paid by instalments.
- (6) Upon receipt of the request for judgment, the Court shall enter judgment.
- (7) Judgment shall be for the amount of the claim (less any payments made) and costs to be paid—
 - (a) by the date or at the times and rate specified in the request for judgment; or
 - (b) if none is specified, immediately.

5. Admission of part of claim for liquidated amount of money

(O. 13A, r. 5)

- (1) This rule applies where—
 - (a) the only remedy that the plaintiff is seeking is the payment of a liquidated amount of money; and
 - (b) the defendant admits part of the claim in satisfaction of the whole claim.
- (2) The defendant may admit part of the claim by—
 - (a) filing in the Registry an admission in Form No. 16 in Appendix A; and
 - (b) serving a copy of the admission on the plaintiff.
- (3) Within 14 days after the copy of the admission is served on him, the plaintiff shall—
 - (a) file in the Registry a notice in Form No. 16B in Appendix A, stating that—

- (i) he accepts the amount admitted in satisfaction of the whole claim;
- (ii) he does not accept the amount admitted by the defendant and wishes the proceedings to continue; or
- (iii) if the defendant has requested time to pay, he accepts the amount admitted in satisfaction of the whole claim, but not the defendant's proposals as to payment; and

(b) serve a copy of the notice on the defendant.

(4) If the plaintiff does not file the notice in accordance with paragraph (3), the whole claim is stayed until he files the notice.

(5) If the plaintiff accepts the amount admitted in satisfaction of the whole claim, he may obtain judgment by filing in the Registry a request in Form No. 16B in Appendix A and, if he does so—

(a) where the defendant has not requested time to pay, paragraphs (6), (7) and (8) apply;

(b) where the defendant has requested time to pay, rule 9 applies.

(6) The plaintiff may specify in his request for judgment—

(a) the date by which the whole of the judgment debt is to be paid; or

(b) the times and rate at which it is to be paid by instalments.

(7) Upon receipt of the request for judgment, the Court shall enter judgment.

(8) Judgment shall be for the amount admitted (less any payments made) and costs to be paid—

(a) by the date or at the times and rate specified in the request for judgment; or

(b) if none is specified, immediately.

6. Admission of liability to pay whole of claim for unliquidated amount of money (O. 13A, r. 6)

(1) This rule applies where—

(a) the only remedy that the plaintiff is seeking is the payment of money;

(b) the amount of the claim is unliquidated; and

(c) the defendant admits liability but does not offer to pay a liquidated amount of money in satisfaction of the claim.

(2) The defendant may admit the claim by—

(a) filing in the Registry an admission in Form No. 16C in Appendix A; and

(b) serving a copy of the admission on the plaintiff.

(3) The plaintiff may obtain judgment by filing in the Registry a request in Form No. 16D in Appendix A.

(4) If the plaintiff does not file a request for judgment within 14 days after the copy of the admission is served on him, the claim is stayed until he files the request.

(5) Upon receipt of the request for judgment, the Court shall enter judgment.

(6) Judgment shall be for an amount to be decided by the Court and costs.

**7. Admission of liability to pay claim
for unliquidated amount of money
where defendant offers a sum in
satisfaction of the claim**

(O. 13A, r. 7)

(1) This rule applies where—

(a) the only remedy that the plaintiff is seeking is the payment of money;

(b) the amount of the claim is unliquidated; and

(c) the defendant—

(i) admits liability; and

(ii) offers to pay a liquidated amount of money in satisfaction of the claim.

(2) The defendant may admit the claim by—

(a) filing in the Registry an admission in Form No. 16C in Appendix A; and

(b) serving a copy of the admission on the plaintiff.

(3) Within 14 days after the copy of the admission is served on him, the plaintiff shall—

(a) file in the Registry a notice in Form No. 16E in Appendix A, stating whether or not he accepts the amount in satisfaction of the claim; and

(b) serve a copy of the notice on the defendant.

(4) If the plaintiff does not file the notice in accordance with paragraph (3), the claim is stayed until he files the notice.

(5) If the plaintiff accepts the offer he may obtain judgment by filing in the Registry a request in Form No. 16E in Appendix A and if he does so—

(a) where the defendant has not requested time to pay, paragraphs (6), (7) and (8) apply;

(b) where the defendant has requested time to pay, rule 9 applies.

- (6) The plaintiff may specify in his request for judgment—
- (a) the date by which the whole of the judgment debt is to be paid; or
 - (b) the times and rate at which it is to be paid by instalments.
- (7) Upon receipt of the request for judgment, the Court shall enter judgment.
- (8) Judgment shall be for the amount offered by the defendant (less any payments made) and costs to be paid—
- (a) by the date or at the times and rate specified in the request for judgment; or
 - (b) if none is specified, immediately.
- (9) If the plaintiff does not accept the amount offered by the defendant, he may obtain judgment by filing in the Registry a request in Form No. 16E in Appendix A.
- (10) Judgment under paragraph (9) shall be for an amount to be decided by the Court and costs.

8. Power of Court to give directions

(O. 13A, r. 8)

Where the Court enters judgment under rule 6 or 7 for an amount to be decided by the Court, it may give such directions as it considers appropriate.

9. Request for time to pay

(O. 13A, r. 9)

(1) A defendant who makes an admission under rule 4, 5 or 7 may make a request for time to pay.

(2) A request for time to pay is a proposal about the date of payment or a proposal to pay by instalments at the times and rate specified in the request.

(3) The defendant's request for time to pay must be filed with his admission.

(4) If the plaintiff accepts the defendant's request for time to pay, he may obtain judgment by filing in the Registry a request for judgment in Form No. 16A, 16B or 16E (as the case may be) in Appendix A.

(5) Upon receipt of the request for judgment, the Court shall enter judgment.

(6) Judgment shall be—

- (a) where rule 4 applies, for the amount of the claim (less any payments made) and costs;
- (b) where rule 5 applies, for the amount admitted (less any payments made) and costs; or

(c) where rule 7 applies, for the amount offered by the defendant (less any payments made) and costs, and (in all cases) shall be for payment by the date or at the times and rate specified in the defendant's request for time to pay.

(7) Where judgment is for payment by instalments at the times and rate specified in the defendant's request for time to pay, then unless the Court otherwise orders and subject to paragraph (8), execution of the judgment is stayed pending payment.

(8) If the defendant fails to pay an instalment or part of an instalment in accordance with the judgment, the stay of execution pursuant to paragraph (7) immediately ceases and the plaintiff may enforce the payment of the whole amount adjudged to be paid or the whole of any unpaid balance.

10. Determination of rate of payment by Court (O. 13A, r. 10)

(1) This rule applies where the defendant makes a request for time to pay under rule 9.

(2) If the plaintiff does not accept the defendant's proposal for payment, he shall file in the Registry a notice in Form No. 16A, 16B or 16E (as the case may be) in Appendix A.

(3) When the Court receives the plaintiff's notice, it shall enter judgment for the amount admitted (less any payments made) to be paid by the date or at the times and rate of payment determined by the Court.

(4) Where the Court is to determine the date or the times and rate of payment, it—

(a) may do so without a hearing; but

(b) shall consider—

(i) the information set out in the defendant's admission filed in the Registry;

(ii) the reasons why the plaintiff does not accept the defendant's proposal for payment; and

(iii) all other relevant matters.

(5) If there is to be a hearing to determine the date or the times and rate of payment, the Court shall give each party at least 7 days' notice of the hearing.

11. Right of re-determination (O. 13A, r. 11)

(1) Where the Court has determined the date or the times and rate of payment under rule 10(4) without a hearing, either party may apply for the decision to be re-determined by the Court.

(2) An application for re-determination must be made within 14 days after the applicant is served with notice of the determination.

12. Interest (O. 13A, r. 12)

(1) Judgment under rule 4, 5 or 7 must include the amount of interest claimed to the date of judgment if—

- (a) the plaintiff is seeking interest and he has stated in the endorsement of the writ or the statement of claim or the originating summons that he is doing so—
 - (i) under the terms of a contract;
 - (ii) under a specified enactment; or
 - (iii) on some other specified basis;
- (b) where interest is claimed under section 49 of the Ordinance, the rate is no higher than the rate of interest payable on judgment debts at the date when the writ or the originating summons was issued; and
- (c) the plaintiff's request for judgment includes a calculation of the interest claimed for the period from the date up to which interest was stated to be calculated in the statement of claim or the originating summons to the date of the request for judgment.

(2) In any case where judgment is entered under rule 4, 5 or 7 and the conditions specified in paragraph (1) are not satisfied, judgment shall be for an amount of interest to be decided by the Court.

13. Form for admission to be served with writ or originating summons (O. 13A, r. 13)

(1) This rule applies where the only remedy that the plaintiff is seeking is the payment of money, whether or not the amount is liquidated.

(2) Where a writ of summons, an originating summons or any other originating process is served on a defendant, it must be accompanied by—

- (a) if the amount of money which the plaintiff is seeking is liquidated, a copy of Form No. 16 in Appendix A for admitting the claim; and
- (b) if the amount of money which the plaintiff is seeking is unliquidated, a copy of Form No. 16C in Appendix A for admitting the claim.

14. Application

(O. 13A, r. 14)

(1) This Order (other than rule 13) applies in relation to a writ of summons, an originating summons or any other originating process served before the commencement of this Order if—

- (a) in the case of a writ of summons, the plaintiff has not obtained a default judgment under Order 13 or 19;
- (b) in the case of an originating summons, the admission is filed and served before the date or the period fixed under Order 28, rule 2; and
- (c) in the case of any other originating process, the period specified in rule 3(1)(c) for filing and serving an admission under rule 4, 5, 6 or 7 has not expired.

(2) This Order applies in relation to a counterclaim with the necessary modifications as if—

- (a) a reference to a claim or statement of claim were a reference to a counterclaim;
- (b) a reference to a plaintiff were a reference to the party making the counterclaim; and
- (c) a reference to a defendant were a reference to the defendant to the counterclaim.

(3) Where a defendant has made a claim against a person not already a party to the action under Order 16, rule 1 or 8, this Order applies in relation to that claim and any other claim made under Order 16, rule 9 with the necessary modifications as if—

- (a) a reference to a plaintiff were a reference to the person who makes the claim; and
- (b) a reference to a defendant were a reference to the person against whom the claim is made.”.

41. Forms

(1) Appendix A is amended in Form No. 1—

(a) by adding “or to make an admission” after “to contest these proceedings”;

(b) by adding immediately below “without further notice.”—

“*[If you intend to make an admission, you may complete an appropriate form enclosed in accordance with the accompanying Directions for Acknowledgment of Service.]”;

(c) by repealing “and, if the Plaintiff obtains an order for substituted service, the additional sum of \$”.

(2) Appendix A is amended in Form No. 14, under the sub-heading “*Directions for Acknowledgment of Service*”—

(a) by adding immediately below paragraph 1—

“*[insert here the address of the Registry of the District Court]*”;

(b) in paragraph 2, by repealing “14 days” where it twice appears and substituting “28 days”;

(c) by repealing paragraph 3 and substituting—

“3. If the only remedy that the Plaintiff is seeking is the payment of a liquidated amount of money or the payment of an unliquidated amount of money, you may admit the Plaintiff’s claim in whole or in part by completing Form No. 16 or 16C (as the case may require) accompanying the Writ of Summons.

A completed Form No. 16 or 16C must be filed with the Registry of the District Court and served on the Plaintiff [or the Plaintiff’s Solicitors] within the period for service of the Defence.”.

(3) Appendix A is amended in Form No. 14, under the heading “**Notes for Guidance**”, by repealing paragraph 6(ii) and substituting—

“(ii) (a) if the Company has more than one director, a director of the Company is acting on its behalf and:

(A) the director has been authorized by the board of directors of the Company to act on its behalf in the proceedings; and

(B) the director has made and filed at the Registry of the District Court an affidavit stating that he has been authorized by the board of directors of the Company to act on its behalf in the proceedings and exhibiting—

(I) the original of the resolution authorizing the director to act on behalf of the Company; or

(II) a copy of such resolution duly certified by another person who must either be a director or the secretary of the Company; or

(b) if the Company has only one director, the director of the Company is acting on its behalf.”.

(4) Appendix A is amended in Form No. 14, under the sub-heading “**ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS**”, by repealing—

- “See Direction 3. 3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick appropriate box)

yes no”

and substituting—

- “See Direction 3. 3. If the only remedy that the Plaintiff is seeking is the payment of a liquidated amount of money or the payment of an unliquidated amount of money, state whether the Defendant intends to make an admission (tick appropriate box).

yes no

If yes, the Defendant may make the admission by completing Form No. 16 or 16C (as the case may require) accompanying the Writ of Summons.”.

(5) Appendix A is amended in Form No. 15, under the sub-heading “*Directions for Acknowledgment of Service*”—

(a) by repealing “The accompanying form” and substituting “1. The accompanying form”;

(b) by adding immediately below paragraph 1—

“*[insert here the address of the Registry of the District Court]*”;

(c) by adding—

“2. If the only remedy that the Plaintiff is seeking is the payment of a liquidated amount of money or the payment of an unliquidated amount of money, you may admit the Plaintiff’s claim in whole or in part by completing Form No. 16 or 16C (as the case may require) accompanying the Originating Summons.

A completed Form No. 16 or 16C must be filed with the Registry of the District Court and served on the Plaintiff [or the Plaintiff’s Solicitors] within the period for filing of the Defendant’s affidavit evidence.”.

(6) Appendix A is amended in Form No. 15, under the sub-heading “ACKNOWLEDGMENT OF SERVICE OF ORIGINATING SUMMONS”, by repealing—

“Where words appear between square brackets, delete if inapplicable.
and substituting—

Service of the Originating Summons is acknowledged accordingly.”

“See Direction 2. 3. If the only remedy that the Plaintiff is seeking is the payment of a liquidated amount of money or the payment of an unliquidated amount of money, state whether the Defendant intends to make an admission (tick appropriate box).

yes no

If yes, the Defendant may make the admission by completing Form No. 16 or 16C (as the case may require) accompanying the Originating Summons.

Where words appear between square brackets, delete if inapplicable.

Service of the Originating Summons is acknowledged accordingly.”.

(7) Appendix A is amended by adding—

“No. 16

Admission (liquidated amount)

(Order 13A rules 4(2), 5(2) & 13(2))

*(Heading as in action)***Explanatory Note**

1. The only claim the plaintiff has made against you is for a liquidated amount of money. You may admit the plaintiff's claim in whole or in part by completing this form—
 - (a) within the period for service of your defence if you have been served with a writ; *or*
 - (b) the period for filing of your affidavit evidence if you have been served with an originating summons; *or*
 - (c) within 14 days after service of the originating process in any other case.
2. If you have made an admission, you may only be allowed to amend or withdraw your admission if the Court considers it just to do so.
3. If you do not ask for time to pay, the plaintiff will decide how much and when you should pay.
4. If you ask for time to pay, the plaintiff will decide whether or not to accept your proposal for payment.
5. If the plaintiff accepts your proposal for payment, the plaintiff may, within 14 days after the copy of your admission is served on him, request the Court to enter judgment against you.
6. If the plaintiff does not accept your proposal for payment, the Court will decide how the payment should be made after considering—
 - (a) the information set out in this form;
 - (b) the reasons why the plaintiff does not accept your proposal for payment; and
 - (c) all other relevant matters.
7. The completed form should be filed in the Registry of the District Court.

How to fill in this form

- Tick the correct boxes and give as much information as you can. **Then sign and date the form.** If necessary provide details on a separate sheet, add the action number and attach it to this form.
- **If you do not ask for time to pay, you need not complete items 2 to 9 and 11 to 14.**
- If you ask for time to pay, make your offer of payment in item 14.
- **If you are not an individual, you need not complete items 1 to 9 but you should complete items 10 to 12 and ensure that you comply with the requirement specified in item 13 and provide sufficient details about the assets and liabilities of your firm, company or corporation to support any offer of payment made in item 14.**
- **If you are an individual, you need not complete items 10 to 12 and need not comply with the requirement specified in item 13.**
- You can get help to complete this form at the Registry of the District Court.

How much of the claim do you admit?

- I admit the full amount claimed as shown on the statement of claim **or**
 I admit the amount of

1. Personal detailsSurname Forename

Mr Mrs Miss Ms

Address **2. Dependants** (*people you look after financially*)*(give details)* **3. Employment** **I am employed as a** My employer is Jobs other than main job
(give details) **I am self employed as a** Annual turnover is **I am not** in arrears with my mandatory provident fund contributions and income tax **I am** in arrears and I owe

Give details of:

(a) contracts and other work
in hand *(b)* any sums due for work
done **I have been unemployed for** years months **I am a pensioner**

4. Bank account and savings *(please list all)*

Bank account	In credit by \$	Overdrawn by \$

5. Residence

- I live in my own flat
 my jointly owned flat
 public housing estate
 rented private flat
 others *(please specify)*

6. Income

My usual take-home pay (including overtime, commission, bonuses, etc.)	\$	per month
My pension(s)	\$	per month
Others living in my home give me	\$	per month
Other income <i>(give details below)</i>		
	\$	per month
	\$	per month
	\$	per month
Total income	\$	per month

7. Other assets *(please list and indicate their location)*

--

8. Expenses

(Do not include any payments made by other members of the household out of their own income)

I have regular expenses as follows:

Mortgage <i>(including second mortgage)</i>	\$	per month
Rent	\$	per month
Rates and government rent	\$	per month
Management fees	\$	per month
Domestic helper's salary	\$	per month
Gas	\$	per month
Electricity	\$	per month
Water charges	\$	per month
Telephone charges	\$	per month
Housekeeping, food, school meals	\$	per month

Travelling expenses	\$	per month
Children's clothing	\$	per month
Tuition fees	\$	per month
Maintenance payments	\$	per month
Court orders	\$	per month
Others		
	\$	per month
	\$	per month
	\$	per month
Total expenses	\$	per month

9. Liabilities

(This section is for arrears only. Do not include regular expenses listed in item 8.)

Rent arrears	\$
Mortgage arrears	\$
Rates and government rent arrears	\$
Water charges arrears	\$
Fuel debts: Gas	\$
Electricity	\$
Others	\$
Maintenance arrears	\$
Loans and credit card debts <i>(please list)</i>	\$
Others <i>(give details below)</i>	
	\$
	\$
Total liabilities	\$

10. Firm, company or corporation

Name

Address

Tel. no.

11. Assets of firm, company or corporation (*please list*)

Property, plant and equipment		\$
Inventories		\$
Goodwill and other intangible assets		\$
Loans and receivables		\$
Bank balances and cash		\$
Others		\$
Total		\$

12. Liabilities of firm, company or corporation (*please list*)

Trade payables		\$
Tax payables		\$
Other payables		\$
Bank loans		\$
Other borrowings		\$
Others		\$
Total		\$

13. Attach to this form a copy of the latest audited profit and loss account and balance sheet of the firm, company or corporation**14. Offer of payment**

<input type="checkbox"/> I can pay the amount admitted on	<input type="text"/>
or	
<input type="checkbox"/> I can pay by [weekly/monthly etc.] instalments of	\$ <input type="text"/>
Starting (date)	
If you cannot pay immediately, please give brief reasons below:	

15. Declaration I _____ declare that the details I have given above and in the attached sheet(s) (if any) are true to the best of my knowledge
And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declaration Ordinance (Cap. 11)

Signed

Position or office held
(If signing on behalf of
a firm, company or
corporation)

With company chop
(if applicable)

Declared at _____ in Hong Kong on _____ of 20 ____.

Before me,

[Signature and designation, i.e., Justice of
the Peace/Notary Public/Commissioner
for Oaths.]

- Note** — Under section 36 of the Crimes Ordinance (Cap. 200), a person who knowingly and wilfully makes a statement false in a material particular in a declaration or other document which he is authorized or required to make by an enactment is guilty of an offence.
- A defendant who is an individual must sign personally. A director of a company must obtain leave to represent the company from a Practice Master before he may sign on behalf of the company.
 - If a plaintiff does not file a request for judgment within 14 days after this form is served on him, his claim is stayed until he files the request.

No. 16A

Request for judgment (admission of liquidated amount)

(Order 13A rules 4(3), 9(4) & 10(2))

(Heading as in action)

- Remember to sign and date the form. Your signature certifies that the information you have given is correct.
- Return the completed form to the Court.
- The completed form should be filed in the Registry of the District Court.

A The defendant has admitted the whole of my claimTick only **one** box below and follow the instructions given. **I accept the defendant's proposal for payment**

Enclose a draft judgment for approval. The Court will enter judgment in accordance with the defendant's proposal.

 The defendant has not made any proposal for payment

Enclose a draft judgment for approval. You can ask for the judgment to be paid by instalments or in one payment.

 I DO NOT accept the defendant's proposal for payment

Enclose a draft judgment for approval. You can say how you want the defendant to pay. Give your reasons for objecting to the defendant's offer of payment. (Continue on the back of this form if necessary.)

Note:—The Court will notify you and the defendant of its judgment.

I certify that the information given is correct**Signed**

(Plaintiff) (Plaintiff's solicitor) (next friend)

Position or office held
(If signing on behalf of
a firm, company or
corporation)**Date****With company chop**
(if applicable)

No. 16B

Reply to part admission of liquidated amount and Request for judgment

(Order 13A rules 5(3) & (5), 9(4) & 10(2))

(Heading as in action)

- **Please tell the Court what you wish to do by completing the lower half of this form and filing it in the Registry of the District Court within 14 days after the copy of the defendant's admission is served on you.**

At the same time you must serve a copy on the defendant. If you do not file this form in the Registry of the District Court within the prescribed period, your claim will be stayed. No further action will be taken by the Court until the form is received.

- You must tick box A or B.
- Remember to sign and date the notice.

A I DO NOT accept the defendant's part admission

If you tick box A the claim will proceed as a defended claim.

B I ACCEPT the amount admitted by the defendant in satisfaction of my whole claim

Tick only **one** box and follow the instructions given.

 I accept the defendant's proposal for payment

Enclose a draft judgment for approval. The Court will enter judgment in accordance with the offer.

 The defendant has not made any proposal for payment

Enclose a draft judgment for approval. You can ask for the judgment to be paid by instalments or in one payment.

 I DO NOT accept the defendant's proposal for payment

Enclose a draft judgment for approval. You can say how you want the defendant to pay. Give your reasons for objecting to the defendant's offer of payment. (Continue on the back of this form if necessary.)

Note:—The Court will notify you and the defendant of its judgment.

I certify that the information given is correct

Signed

(Plaintiff) (Plaintiff's solicitor) (next friend)

Position or office held
(If signing on behalf of
a firm, company or
corporation)

Date

With company chop
(if applicable)

No. 16C

Admission (unliquidated amount)

(Order 13A rules 6(2), 7(2) & 13(2))

*(Heading as in action)***Explanatory Note**

1. The only claim the plaintiff has made against you is for an unliquidated amount of money. You may admit the plaintiff's claim in whole or in part by completing this form—
 - (a) within the period for service of your defence if you have been served with a writ; *or*
 - (b) the period for filing of your affidavit evidence if you have been served with an originating summons; *or*
 - (c) within 14 days after service of the originating process in any other case.
2. If you have made an admission, you may only be allowed to amend or withdraw your admission if the Court considers it just to do so.
3. You may offer a specified amount to satisfy the claim. If the amount you offer is accepted by the plaintiff, the plaintiff may request the Court to enter judgment against you for that amount. Alternatively, the plaintiff may request the Court to enter judgment against you for an amount to be decided by the Court and costs.
4. You may also ask for time to pay. If the plaintiff does not accept your proposal for payment, the Court will decide how the payment should be made after considering—
 - (a) the information set out in this form;
 - (b) the reasons why the plaintiff does not accept your proposal for payment; and
 - (c) all other relevant matters.
5. The completed form should be filed in the Registry of the District Court.

How to fill in this form

- Tick the correct boxes and give as much information as you can. **Then sign and date the form.** If necessary provide details on a separate sheet, add the action number and attach it to this form.
- **If you do not ask for time to pay, you need not complete items 2 to 9 and 11 and 12.**
- **If you are not an individual, you need not complete items 1 to 9 but you should complete items 10 to 12 and ensure that you comply with the requirement specified in item 13 and provide sufficient details about the assets and liabilities of your firm, company or corporation to support any offer of payment made.**
- **If you are an individual, you need not complete items 10 to 12 and need not comply with the requirement specified in item 13.**
- You can get help to complete this form at the Registry of the District Court.

Part A Response to claim *(tick one box only)*

- I admit liability for the whole claim but want the Court to decide the amount I should pay (if you tick this box, you need not complete Part B and items 2 to 9, 11 and 12 and need not comply with the requirement specified in item 13)

OR

- I admit liability for the claim and offer to pay in satisfaction of the claim

Part B How are you going to pay the amount you have admitted? (tick one box only)

I offer to pay on (date)

OR

I cannot pay the amount immediately because (state reason)

AND

I offer to pay by instalments of \$ per (week)(month) starting (date)

1. Personal details

Surname

Forename

Mr Mrs Miss Ms

Address

2. Dependants (people you look after financially)

(give details)

3. Employment

I am employed as a

My employer is

Jobs other than main job
(give details)

I am self employed as a

Annual turnover is \$

I am not in arrears with my mandatory provident fund contributions and income tax

I am in arrears and I owe \$

Give details of:
(a) contracts and other work
in hand

(b) any sums due for work
done

I have been unemployed for years months

I am a pensioner

4. Bank account and savings *(please list all)*

Bank account	In credit by \$	Overdrawn by \$

5. Residence

- I live in my own flat
 my jointly owned flat
 public housing estate
 rented private flat
 others (please specify)

6. Income

My usual take-home pay (including overtime, commission, bonuses, etc.)	\$	per month
My pension(s)	\$	per month
Others living in my home give me	\$	per month
Other income <i>(give details below)</i>		
	\$	per month
	\$	per month
	\$	per month
Total income	\$	per month

7. Other assets *(please list and indicate their location)*

8. Expenses

(Do not include any payments made by other members of the household out of their own income)

I have regular expenses as follows:

Mortgage <i>(including second mortgage)</i>	\$	per month
Rent	\$	per month
Rates and government rent	\$	per month
Management fees	\$	per month
Domestic helper's salary	\$	per month
Gas	\$	per month
Electricity	\$	per month
Water charges	\$	per month
Telephone charges	\$	per month

Housekeeping, food, school meals	\$	per month
Travelling expenses	\$	per month
Children's clothing	\$	per month
Tuition fees	\$	per month
Maintenance payments	\$	per month
Court orders	\$	per month
Others		
	\$	per month
	\$	per month
	\$	per month
Total expenses	\$	per month

9. Liabilities

(This section is for arrears only. Do not include regular expenses listed in item 8.)

Rent arrears	\$
Mortgage arrears	\$
Rates and government rent arrears	\$
Water charges arrears	\$
Fuel debts: Gas	\$
Electricity	\$
Others	\$
Maintenance arrears	\$
Loans and credit card debts <i>(please list)</i>	\$
Others <i>(give details below)</i>	
	\$
	\$
Total liabilities	\$

10. Firm, company or corporation

Name

Address

Tel. no.

11. Assets of firm, company or corporation (*please list*)

Property, plant and equipment		\$
Inventories		\$
Goodwill and other intangible assets		\$
Loans and receivables		\$
Bank balances and cash		\$
Others		\$
Total		\$

12. Liabilities of firm, company or corporation (*please list*)

Trade payables		\$
Tax payables		\$
Other payables		\$
Bank loans		\$
Other borrowings		\$
Others		\$
Total		\$

13. Attach to this form a copy of the latest audited profit and loss account and balance sheet of the firm, company or corporation

- 14. Declaration** I _____ declare that the details I have given above and in the attached sheet(s) (if any) are true to the best of my knowledge
And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declaration Ordinance (Cap. 11)

Signed

Position or office held
(If signing on behalf of a firm, company or corporation)

With company chop
(if applicable)

Declared at _____ in Hong Kong on _____ of 20 ____.

Before me,

[Signature and designation, i.e., Justice of the Peace/Notary Public/Commissioner for Oaths.]

- Note**— Under section 36 of the Crimes Ordinance (Cap. 200), a person who knowingly and wilfully makes a statement false in a material particular in a declaration or other document which he is authorized or required to make by an enactment is guilty of an offence.
- A defendant who is an individual must sign personally. A director of a company must obtain leave to represent the company from a Practice Master before he may sign on behalf of the company.
 - If a plaintiff does not file a request for judgment within 14 days after this form is served on him, his claim is stayed until he files the request.

No. 16D

Request for judgment (admission of unliquidated amount)

(Order 13A rule 6(3))

(Heading as in action)

The defendant has admitted liability to pay the whole of my claim but has not made any proposal for payment.

I request judgment to be entered against the defendant for an amount to be decided by the Court and costs. [Enclose a draft judgment for approval]

Signed		Position or office held (If signing on behalf of a firm, company or corporation)	
	(Plaintiff) (Plaintiff's solicitor) (next friend)		
Date		With company chop (if applicable)	

- The completed form should be filed in the Registry of the District Court.

No. 16E

Reply to admission of unliquidated amount and Request for judgment

(Order 13A rules 7(3), (5) & (9), 9(4) & 10(2))

*(Heading as in action)***Important notes for plaintiff**

- You must tick either item A **or** complete item B and file the form in the Registry of the District Court within 14 days after the copy of the defendant's admission is sent to you. At the same time you must send a copy to the defendant. If you do not return the form within the prescribed period, your claim will be stayed. No further action will be taken by the Court until the form is received.
- Remember to sign and date the notice.

A **I DO NOT accept the amount offered by the defendant in satisfaction of my claim. I wish judgment to be entered for an amount to be decided by the Court.**

The Court will give directions for management of the case.

B **I ACCEPT the amount admitted by the defendant in satisfaction of my claim**

Tick only **one** box and follow the instructions given.

I accept the defendant's proposal for payment

Enclose a draft judgment for approval. The Court will enter judgment in accordance with the offer.

I DO NOT accept the defendant's proposal for payment

Enclose a draft judgment for approval. You can say how you want the defendant to pay. Give your reasons for objecting to the defendant's offer of payment. (Continue on the back of this form if necessary.)

Note:— The Court will notify you and the defendant of its judgment.

I certify that the information given is correct

Signed

(Plaintiff) (Plaintiff's solicitor) (next friend)

Position or office held
(If signing on behalf of
a firm, company or
corporation)

Date

With company chop
(if applicable)

”

- (8) Appendix A is amended in Form No. 17—
- (a) by repealing “Take notice that” and substituting “1. Take notice that”;
- (b) by adding—
- “2. If the only remedy that the counterclaiming plaintiff is seeking is the payment of a liquidated amount of money or the payment of an unliquidated amount of money, you may admit the counterclaiming plaintiff’s claim in whole or in part by completing Form No. 16 or 16C (as the case may require) accompanying the counterclaim.

A completed Form No. 16 or 16C must be filed with the Registry of the District Court and served on the counterclaiming plaintiff [or the counterclaiming plaintiff’s solicitors] within the period for service of the defence to counterclaim.”.

PART 8

PLEADINGS

Division 1—Recommendations 22 to 24

42. Admissions and denials

Order 18, rule 13 is amended—

- (a) in paragraph (1)—
- (i) by repealing “Any allegation” and substituting “Subject to paragraph (5), an allegation”;
- (ii) by repealing “denial” and substituting “non-admission”;
- (b) in paragraph (2), by repealing “A traverse” and substituting “Subject to paragraph (4), a traverse”;
- (c) by adding—
- “(4) Where an allegation made in a statement of claim or counterclaim is traversed by a denial, the party who denies the allegation shall in his defence or defence to counterclaim—
- (a) state his reasons for doing so; and
- (b) if he intends to put forward a different version of events from that given by the claimant, state his own version.

- (5) A party who—
- (a) fails to deal with an allegation; but
 - (b) has set out in his defence or defence to counterclaim the nature of his case in relation to the issue to which that allegation is relevant,

is to be taken to require that allegation to be proved.”.

43. Denial by joinder of issue

Order 18, rule 14 is amended—

- (a) in the heading, by repealing “**Denial**” and substituting “**Non-admission**”;
- (b) in paragraph (4), by repealing “denial” where it twice appears and substituting “non-admission”.

44. Rule added

Order 18 is amended by adding—

“23. Transitional provision relating to rule 42 of Amendment Rules 2008
(O. 18, r. 23)

Where a statement of claim has been served on a defendant before the commencement of the Amendment Rules 2008, then rule 42 of the Amendment Rules 2008 does not apply to the defence to the claim and if a counterclaim has been served on the plaintiff, to the defence to the counterclaim, and rule 13 as in force immediately before the commencement continues to apply as if rule 42 of the Amendment Rules 2008 had not been made.”.

Division 2—Recommendations 26 to 32 and 35

45. Service of defence

Order 18, rule 2(1), (2) and (3) is amended by repealing “14 days” and substituting “28 days”.

46. Service of reply and defence to counterclaim

Order 18, rule 3(4) is amended by repealing “14 days” where it twice appears and substituting “28 days”.

47. Rule added

Order 18 is amended by adding—

**“12A. Pleading with inconsistent alternatives
(O. 18, r. 12A)**

A party may in any pleading make an allegation of fact which is inconsistent with another allegation of fact in the same pleading if—

- (a) the party has reasonable grounds for so doing; and
- (b) the allegations are made in the alternative.”.

48. Striking out pleadings and indorsements

Order 18, rule 19 is amended—

- (a) in paragraph (1), by adding “, either of its own motion or on application,” after “The Court may”;
- (b) in paragraph (3), by repealing “as if the summons were a pleading” and substituting “and a petition as if the summons or petition, as the case may be, were a pleading”.

49. Close of pleadings

Order 18, rule 20(1)(b) is amended by repealing “14 days” and substituting “28 days”.

50. Rule added

Order 18 is amended by adding—

**“20A. Pleading, etc. to be verified by statement
of truth (O. 18, r. 20A)**

(1) A pleading and the particulars of a pleading specified in paragraph (2) must be verified by a statement of truth in accordance with Order 41A.

(2) The particulars of a pleading referred to in paragraph (1) are the particulars given by a party to any other party, whether voluntarily or pursuant to—

- (a) a request made by that other party; or
- (b) an order of the Court made under rule 12(3) or (4).”.

51. Rule added

Order 18 is amended by adding—

“24. Transitional provision relating to rules 45 and 46 of Amendment Rules 2008
(O. 18, r. 24)

Where a statement of claim has been served on a defendant before the commencement of the Amendment Rules 2008, then rules 45 and 46 of the Amendment Rules 2008 do not apply—

- (a) in relation to the service of the defence and the reply to that defence; and
- (b) if a counterclaim has been served on the plaintiff, in relation to the service of the defence to the counterclaim,

and rules 2 and 3 as in force immediately before the commencement continue to apply as if rules 45 and 46 of the Amendment Rules 2008 had not been made.”.

52. Rule added

Order 20 is amended by adding—

“13. Amendment of pleadings or particulars of pleadings to be verified by statement of truth (O. 20, r. 13)

(1) An amendment to a pleading or to the particulars of a pleading specified in paragraph (2) must be verified by a statement of truth in accordance with Order 41A.

(2) The particulars of a pleading referred to in paragraph (1) are the particulars given by a party to any other party, whether voluntarily or pursuant to—

- (a) a request made by that other party; or
- (b) an order of the Court made under Order 18, rule 12(3) or (4).”.

53. Exchange of witness statements

Order 38, rule 2A(4)(a) is amended by repealing “shall include a statement by him that the contents are true to the best of his knowledge and belief” and substituting “must be verified by a statement of truth in accordance with Order 41A”.

54. Rule added

Order 38 is amended by adding—

“37A. Expert report to be verified by statement of truth (O. 38, r. 37A)

An expert report disclosed under these Rules must be verified by a statement of truth in accordance with Order 41A.”.

55. Order added

The following is added immediately after Order 41—

“ORDER 41A**STATEMENT OF TRUTH****1. Interpretation (O. 41A, r. 1)**

In this Order, unless the context otherwise requires—
“expert report” (專家報告) means an expert report disclosed under these Rules;

“pleading” (狀書) includes—

- (a) particulars of a pleading given by a party to any other party, whether voluntarily or pursuant to—
 - (i) a request made by that other party; or
 - (ii) an order of the Court made under Order 18, rule 12(3) or (4); and
- (b) an amendment to a pleading or any of the particulars referred to in paragraph (a);

“witness statement” (證人陳述書) means a statement served under Order 38, rule 2A.

2. Documents to be verified by statement of truth (O. 41A, r. 2)

(1) The following documents must be verified by a statement of truth in accordance with this Order—

- (a) a pleading;
- (b) a witness statement;
- (c) an expert report; and
- (d) any other document verification of which in accordance with this Order is required by any other provision of these Rules or by a practice direction.

(2) A pleading must be verified by a statement of truth in accordance with this Order notwithstanding that the party has in the pleading made an allegation of fact in accordance with Order 18, rule 12A, which is inconsistent with another allegation of fact in the same pleading.

(3) If the Court considers that it is just to do so in a particular case, it may direct that all or any of the documents specified in paragraph (1) need not be verified by a statement of truth.

(4) All or any of the documents specified in paragraph (1) need not be verified by a statement of truth if it is so provided by a practice direction.

(5) A practice direction may only provide that all or any of the documents specified in paragraph (1) need not be verified by a statement of truth if the documents or document relate to a matter that is to be heard in a specialist list.

3. Signing of statement of truth (O. 41A, r. 3)

(1) Subject to paragraphs (6), (7), (8) and (9), a statement of truth must be signed by—

- (a) in the case of a witness statement or expert report, the maker of the statement or report;
- (b) in any other case—
 - (i) the party putting forward the verified document or where appropriate, his next friend or guardian ad litem; or
 - (ii) the legal representative of the party or next friend or guardian ad litem.

(2) Subject to paragraphs (6), (7), (8) and (9), where a party is a body of persons, corporate or unincorporate, the statement of truth must be signed by a person holding a senior position in the body.

(3) Subject to paragraph (7), where the party is a public officer, the statement of truth must be signed by the public officer or a person holding a senior position in the public body or public authority to which the proceedings relate.

(4) Each of the following persons is a person holding a senior position—

- (a) in respect of a corporation that is neither a public body nor a public authority, any director, manager, secretary or other similar officer of the corporation;
- (b) in respect of an unincorporated association that is neither a public body nor a public authority, any corresponding person appropriate to that unincorporated association; and
- (c) in respect of a public body or public authority, a person duly authorized by the public body or public authority for the purposes of this subparagraph.

(5) Where a statement of truth is signed by a person holding a senior position, that person shall state in the statement of truth the office or position he holds.

(6) Subject to paragraphs (7), (8) and (9), where the party is a partnership, the statement of truth must be signed by—

- (a) one of the partners; or
- (b) a person having the control or management of the partnership business.

(7) A statement of truth in or in relation to a pleading may be signed by—

- (a) a person who is not a party; or
- (b) two or more parties jointly,

if this is permitted by a practice direction.

(8) An insurer or the Motor Insurers' Bureau of Hong Kong may sign a statement of truth in or in relation to a pleading on behalf of a party where the insurer or the Motor Insurers' Bureau of Hong Kong has a financial interest in the result of proceedings brought wholly or partially by or against that party.

(9) If more than one insurer is conducting proceedings on behalf of a plaintiff or defendant, a statement of truth in or in relation to a pleading may be signed by an officer of the insurer responsible for the case as the lead insurer, but—

- (a) the person signing shall specify the capacity in which he signs;
- (b) the statement of truth must be a statement that the lead insurer believes that the facts stated in the document are true; and

(c) the Court may order that the statement of truth also be signed by one or more of the parties.

(10) Where a legal representative signs a statement of truth, he shall sign in his own name, and shall not sign only in the name of the firm to which he belongs.

4. Effect of statement of truth

(O. 41A, r. 4)

(1) Subject to paragraph (2), a statement of truth is a statement that—

- (a) the party putting forward the document believes that the facts stated in the document are true; or
- (b) in the case of a witness statement or expert report, the maker of the witness statement or expert report believes that the facts stated in the document are true and (if applicable) the opinion expressed in it is honestly held.

(2) If a party is conducting proceedings with a next friend or guardian ad litem, the statement of truth in or in relation to a pleading is a statement that the next friend or guardian ad litem believes the facts stated in the document being verified are true.

(3) Where a legal representative or insurer has signed a statement of truth on behalf of a party, the Court shall treat his signature as his statement that—

- (a) the party on whose behalf he has signed had authorized him to do so;
- (b) before signing he had explained to the party that in signing the statement of truth he would be confirming the party's belief that the facts stated in the document were true; and
- (c) before signing he had informed the party of the possible consequences to the party if it should subsequently appear that the party did not have an honest belief in the truth of those facts.

5. Form of statement of truth

(O. 41A, r. 5)

(1) The form of the statement of truth verifying a document other than a witness statement or expert report is as follows—
“[I believe] [the (*plaintiff or as may be*) believes] that the facts stated in this [*name document being verified*] are true.”

(2) The form of the statement of truth verifying a witness statement or expert report is as follows—

“I believe that the facts stated in this [*name document being verified*] are true and (if applicable) the opinion expressed in it is honestly held.”.

(3) Where the statement of truth is not contained in the document that it verifies—

- (a) the document containing the statement of truth must be headed with the title of the proceedings and the action number; and
- (b) the document being verified must be identified in the statement of truth as follows—
 - (i) pleading: “the [*statement of claim or as may be*] served on the [*name of party*] on [*date*]”;
 - (ii) particulars of pleading: “the particulars of pleading issued on [*date*]”;
 - (iii) amendment to a pleading or particulars of pleading: “the amendment to [*name document being verified*], made on [*date*]”;
 - (iv) witness statement: “the witness statement filed on [*date*] or served on [*party*] on [*date*]”;
 - (v) expert report: “the expert report disclosed to [*party*] on [*date*]”.

6. Failure to verify pleading

(O. 41A, r. 6)

(1) The Court may by order strike out a pleading that is not verified by a statement of truth.

(2) Any party may apply for an order under paragraph (1).

7. Failure to verify witness statement or expert report (O. 41A, r. 7)

If the maker of a witness statement or expert report fails to verify the witness statement or expert report by a statement of truth, the witness statement or expert report is not admissible in evidence unless otherwise ordered by the Court.

8. Power of Court to require document to be verified (O. 41A, r. 8)

(1) The Court may order a person who has failed to verify a document in accordance with this Order to verify the document.

(2) Any party may apply for an order under paragraph (1).

9. False statements (O. 41A, r. 9)

(1) Proceedings for contempt of court may be brought against a person if he makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

(2) Proceedings under this rule may be brought only—

(a) by the Secretary for Justice or a person aggrieved by the false statement; and

(b) with the leave of the Court.

(3) The Court shall not grant the leave under paragraph (2) unless it is satisfied that the punishment for contempt of court is proportionate and appropriate in relation to the false statement.

(4) Proceedings under this rule are subject to the law relating to contempt of court and this rule is without prejudice to such law.

10. Transitional (O. 41A, r. 10)

This Order does not apply in relation to a document in any action if that document was filed, served or exchanged before the commencement of this Order.”.

56. Forms

(1) Appendix A is amended in Form No. 1 by adding “A statement of claim must be verified by a statement of truth in accordance with Order 41A of the Rules of the District Court (Cap. 336 sub. leg. H).” after “*(Signed if statement of claim indorsed.”.

(2) Appendix A is amended in Form No. 14, under the sub-heading “*Directions for Acknowledgment of Service*”, by adding immediately above paragraph 3—

“The Defendant’s defence must be verified by a statement of truth in accordance with Order 41A of the Rules of the District Court (Cap. 336 sub. leg. H).”.

Division 3—Recommendations 33 and 34**57. Particulars of pleading**

Order 18, rule 12 is amended by adding—

“(3A) The Court may make an order under paragraph (3) upon the application of a party or of its own motion.

(3B) No order shall be made under paragraph (3) unless the Court is of the opinion that the order is necessary either for disposing fairly of the cause or matter or for saving costs.”.

58. Amendment of certain other documents

Order 20, rule 8 is amended—

- (a) in the heading, by adding “**pleading and**” after “**Amendment of**”;
- (b) in paragraph (1), by repealing “order any document” and substituting “order a pleading or any other document”;
- (c) by adding—

“(1A) The Court shall not under paragraph (1) order a pleading to be amended unless it is of the opinion that the order is necessary either for disposing fairly of the cause or matter or for saving costs.”.

59. Failure to amend after order

Order 20, rule 9 is amended—

- (a) by renumbering it as Order 20, rule 9(1);
- (b) by adding—

“(2) Paragraph (1) is subject to any directions given by the Court.”.

PART 9

SANCTIONED OFFERS AND SANCTIONED PAYMENTS

Division 1—Recommendations 38, 39, 41, 42 and 43

60. Definitions

Order 1, rule 4(1) is amended by adding—

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

61. Order substituted

Order 22 is repealed and the following substituted—

“ORDER 22

OFFERS TO SETTLE AND PAYMENTS INTO COURT

I. PRELIMINARY

1. Interpretation (O. 22, r. 1)

(1) In this Order—

“claim” (申索) includes, where the context so permits or requires, a counterclaim;

“counterclaim” (反申索) includes, where the context so permits or requires, a claim;

“defendant” (被告人) includes, where the context so permits or requires, a defendant to a counterclaim;

“offeree” (受提議者) means the party to whom an offer is made;

“offeror” (提議者) means the party who makes an offer;

“plaintiff” (原告人) includes, where the context so permits or requires, a counterclaiming defendant;

“sanctioned offer” (附帶條款和解提議) means an offer made (otherwise than by way of a payment into court) in accordance with this Order;

“sanctioned payment” (附帶條款付款) means an offer made by way of a payment into court in accordance with this Order;

“sanctioned payment notice” (附帶條款付款通知書) means the notice relating to a sanctioned payment required to be filed under rule 8(2).

(2) Where in an action the plaintiff makes more than one claim, a reference in this Order to—

- (a) the whole claim is to be construed as a reference to all the claims in their entirety;
- (b) a part of a claim is to be construed as a reference to any one or more of the claims or a part of any one or more of the claims; and
- (c) an issue arising from a claim is to be construed as a reference to an issue arising from one or more of the claims.

2. Offer to settle with specified consequences (O. 22, r. 2)

(1) A party to an action containing a money claim or a non-money claim or both arising from any cause or causes of action may make an offer to settle the whole claim, a part of it or any issue arising from it in accordance with this Order.

(2) An offer made under paragraph (1) may take into account any counterclaim or set-off in the action.

(3) An offer made under paragraph (1) has the consequences specified in rules 20, 21, 22, 23 and 24 (as may be applicable).

(4) Nothing in this Order prevents a party from making an offer to settle in whatever way he chooses, but if that offer is not made in accordance with this Order, it does not have the consequences specified in this Order, unless the Court so orders.

**II. MANNER OF MAKING SANCTIONED OFFER OR
SANCTIONED PAYMENT**

**3. Defendant's offer to settle
(O. 22, r. 3)**

(1) An offer by a defendant to settle the whole or part of a claim or an issue arising from the claim does not have the consequences specified in this Order unless it is made by way of a sanctioned offer or a sanctioned payment or both.

(2) Where an offer by a defendant involves a payment of money to the plaintiff, the offer must be made by way of a sanctioned payment.

(3) A sanctioned payment may only be made after the proceedings have commenced.

4. Plaintiff's offer to settle

(O. 22, r. 4)

An offer by a plaintiff to settle the whole or part of a claim or an issue arising from the claim does not have the consequences specified in this Order unless it is made by way of a sanctioned offer.

5. Form and content of sanctioned offer (O. 22, r. 5)

- (1) A sanctioned offer must be in writing.
- (2) A sanctioned offer may relate to the whole claim or to part of it or to any issue arising from it.
- (3) A sanctioned offer must—
 - (a) state whether it relates to the whole claim or to part of it or to an issue arising from it and if so to which part or issue;
 - (b) state whether it takes into account any counterclaim or set-off; and
 - (c) if it is expressed not to be inclusive of interest, give the details relating to interest set out in rule 26(2).
- (4) A defendant may make a sanctioned offer limited to accepting liability up to a specified proportion.
- (5) A sanctioned offer may be made by reference to an interim payment.
- (6) A sanctioned offer may be made at any time after the commencement of the proceedings but may not be made before such commencement.
- (7) A sanctioned offer made not less than 28 days before the commencement of the trial must provide that after the expiry of 28 days from the date the sanctioned offer is made, the offeree may only accept it if—
 - (a) the parties agree on the liability for costs; or
 - (b) the Court grants leave to accept it.
- (8) A sanctioned offer made less than 28 days before the commencement of the trial must provide that the offeree may only accept it if—
 - (a) the parties agree on the liability for costs; or
 - (b) the Court grants leave to accept it.

6. Service of sanctioned offer

(O. 22, r. 6)

An offeror shall serve the sanctioned offer—

- (a) on the offeree; and

- (b) where the offeree is an aided person, on the Director of Legal Aid.

7. Withdrawal or diminution of sanctioned offer (O. 22, r. 7)

(1) A sanctioned offer made not less than 28 days before the commencement of the trial may not be withdrawn or diminished before the expiry of 28 days from the date the sanctioned offer is made unless the Court grants leave to withdraw or diminish it.

(2) A sanctioned offer made less than 28 days before the commencement of the trial may be withdrawn or diminished if the Court grants leave to withdraw or diminish it.

(3) If there is subsisting an application to withdraw or diminish a sanctioned offer, the sanctioned offer may not be accepted unless the Court grants leave to accept it.

(4) If the Court dismisses an application to withdraw or diminish a sanctioned offer or grants leave to diminish the sanctioned offer, it may by order specify the period within which the sanctioned offer or diminished sanctioned offer may be accepted.

(5) If a sanctioned offer is withdrawn, it does not have the consequences specified in this Order.

8. Notice of sanctioned payment (O. 22, r. 8)

(1) A sanctioned payment may relate to the whole claim or to part of it or to an issue arising from it.

(2) A defendant who makes a sanctioned payment shall file with the Court a notice in Form No. 23 in Appendix A, that—

- (a) states the amount of the payment;
- (b) states whether the payment relates to the whole claim or to part of it or to an issue arising from it and if so to which part or issue it relates;
- (c) states whether it takes into account any counterclaim or set-off;
- (d) if an interim payment has been made, states that the interim payment has been taken into account;
- (e) if it is expressed not to be inclusive of interest, gives the details relating to interest set out in rule 26(2); and
- (f) if a sum of money has been paid into court (other than as security for costs), states whether the sanctioned payment has taken into account that sum of money.

9. Service of sanctioned payment

(O. 22, r. 9)

A defendant who makes a sanctioned payment shall—

- (a) serve the sanctioned payment notice—
 - (i) on the plaintiff; and
 - (ii) where the plaintiff is an aided person, on the Director of Legal Aid; and
- (b) file with the Court a certificate of service of the notice.

10. Withdrawal or diminution of sanctioned payment (O. 22, r. 10)

(1) A sanctioned payment may not be withdrawn or diminished before the expiry of 28 days from the date the sanctioned payment is made unless the Court grants leave to withdraw or diminish it.

(2) If there is subsisting an application to withdraw or diminish a sanctioned payment, the sanctioned payment may not be accepted unless the Court grants leave to accept it.

(3) If the Court dismisses an application to withdraw or diminish a sanctioned payment or grants leave to diminish the sanctioned payment, it may by order specify the period within which the sanctioned payment or diminished sanctioned payment may be accepted.

(4) If a sanctioned payment is withdrawn, it does not have the consequences specified in this Order.

11. Offer to settle claim for provisional damages (O. 22, r. 11)

(1) A defendant may make a sanctioned payment in respect of a claim that includes a claim for provisional damages.

(2) Where the defendant makes a sanctioned payment under paragraph (1), the sanctioned payment notice must specify whether or not the defendant is offering to agree to the making of an award of provisional damages.

(3) Where the defendant is offering to agree to the making of an award of provisional damages, the sanctioned payment notice must also state—

- (a) that the sum paid into court is in satisfaction of the claim for damages on the assumption that the injured person will not develop the disease or suffer the type of deterioration specified in the notice;

- (b) that the offer is subject to the condition that the plaintiff shall make any claim for further damages within a limited period; and
 - (c) what that period is.
- (4) Where a sanctioned payment is—
- (a) made in accordance with paragraph (3); and
 - (b) accepted within the relevant period specified in rule 15,
- the sanctioned payment has the consequences specified in rule 20, unless the Court orders otherwise.
- (5) If the plaintiff accepts the sanctioned payment he must, within 7 days of doing so, apply to the Court for an order for an award of provisional damages under Order 37, rule 8.
- (6) The money in court may not be paid out unless the Court has disposed of the application made under paragraph (5).
- (7) In this rule, “provisional damages” (暫定損害賠償) means damages for personal injuries that are to be assessed on the assumption that the injured person will not develop the disease or suffer the deterioration referred to in section 72E of the Ordinance.

12. Time when sanctioned offer or sanctioned payment is made and accepted (O. 22, r. 12)

- (1) A sanctioned offer is made when it is served on the offeree.
- (2) A sanctioned payment is made when a sanctioned payment notice is served on the offeree.
- (3) An amendment to a sanctioned offer is effective when its details are served on the offeree.
- (4) An amendment to a sanctioned payment is effective when notice of the amendment is served on the offeree.
- (5) A sanctioned offer or a sanctioned payment is accepted when notice of its acceptance is served on the offeror.

13. Service of notice of acceptance of plaintiff's sanctioned offer (O. 22, r. 13)

- (1) Where there is more than one defendant, a defendant who serves on the plaintiff a notice of acceptance of the plaintiff's sanctioned offer shall at the same time serve a copy of the notice on the other defendant or defendants.
- (2) A defendant on whom a copy of the notice has been served may within 14 days after the service apply to the Court for—

- (a) a direction as to any question of costs between him and the defendant who has accepted the plaintiff's sanctioned offer; and
 - (b) any other direction relating to the acceptance of the plaintiff's sanctioned offer.
- (3) No application may be made under paragraph (2) after the expiry of the 14-day period referred to in that paragraph.

14. Clarification of sanctioned offer or sanctioned payment notice

(O. 22, r. 14)

(1) The offeree may, within 7 days of a sanctioned offer or a sanctioned payment being made, request the offeror to clarify the offer or payment notice.

(2) If the offeror does not give the clarification requested under paragraph (1) within 7 days of service of the request, the offeree may, unless the trial has commenced, apply for an order that he does so.

(3) If the Court makes an order pursuant to an application made under paragraph (2), it shall specify the date when the sanctioned offer or sanctioned payment is to be treated as having been made.

(4) Where a cause of action under the Fatal Accidents Ordinance (Cap. 22) and a cause of action under Part IV or IVA of the Law Amendment and Reform (Consolidation) Ordinance (Cap. 23) are joined in an action, with or without any other cause of action, the plaintiff is not entitled under paragraph (1) to request the defendant to make an apportionment of the sanctioned payment between the causes of action under those Ordinances.

**III. ACCEPTANCE OF SANCTIONED OFFER OR
SANCTIONED PAYMENT**

15. Time for acceptance of defendant's sanctioned offer or sanctioned payment (O. 22, r. 15)

(1) Subject to rules 7(3) and 10(2), a plaintiff may accept a sanctioned offer or a sanctioned payment made not less than 28 days before the commencement of the trial without requiring the leave of the Court if he files with the Court and serves on the defendant a written notice of acceptance not later than 28 days after the offer or payment was made.

- (2) If—
- (a) a defendant's sanctioned offer or sanctioned payment is made less than 28 days before the commencement of the trial; or
 - (b) the plaintiff does not accept it within the period specified in paragraph (1),
- then the plaintiff may—
- (i) if the parties agree on the liability for costs, accept the offer or payment without the leave of the Court; and
 - (ii) if the parties do not agree on the liability for costs, only accept the offer or payment with the leave of the Court.
- (3) Where the leave of the Court is required under paragraph (2), the Court shall, if it grants leave, make an order as to costs.
- (4) A notice of acceptance of a sanctioned payment must be in Form No. 24 in Appendix A.

16. Time for acceptance of plaintiff's sanctioned offer (O. 22, r. 16)

(1) Subject to rule 7(3), a defendant may accept a sanctioned offer made not less than 28 days before the commencement of the trial without requiring the leave of the Court if he files with the Court and serves on the plaintiff a written notice of acceptance not later than 28 days after the offer was made.

- (2) If—
- (a) a plaintiff's sanctioned offer is made less than 28 days before the commencement of the trial; or
 - (b) the defendant does not accept it within the period specified in paragraph (1),
- then the defendant may—
- (i) if the parties agree on the liability for costs, accept the offer without the leave of the Court; and
 - (ii) if the parties do not agree on the liability for costs, only accept the offer with the leave of the Court.
- (3) Where the leave of the Court is required under paragraph (2), the Court shall, if it grants leave, make an order as to costs.

17. Payment out of a sum in court on acceptance of sanctioned payment (O. 22, r. 17)

Subject to rules 18(4) and 19 and Order 22A, rule 2, where a sanctioned payment is accepted, the plaintiff may obtain payment out of the sum in court by making a request for payment in Form No. 25 in Appendix A.

18. Acceptance of sanctioned offer or sanctioned payment made by one or more, but not all, defendants (O. 22, r. 18)

(1) This rule applies where the plaintiff wishes to accept a sanctioned offer or a sanctioned payment made by one or more, but not all, of a number of defendants.

(2) If the defendants are sued jointly or in the alternative, the plaintiff may accept the offer or payment without requiring the leave of the Court in accordance with rule 15(1) if—

- (a) he discontinues his claim against those defendants who have not made the offer or payment; and
- (b) those defendants give written consent to the acceptance of the offer or payment.

(3) If the plaintiff alleges that the defendants have a several liability to him, the plaintiff may—

- (a) accept the offer or payment in accordance with rule 15(1); and
- (b) continue with his claims against the other defendants.

(4) In all other cases the plaintiff shall apply to the Court for—

- (a) an order permitting a payment out to him of any sum in court; and
- (b) such order as to costs as the Court considers appropriate.

19. Other cases where court order is required to enable acceptance of sanctioned offer or sanctioned payment (O. 22, r. 19)

(1) Where a sanctioned offer or a sanctioned payment is made in proceedings to which Order 80, rule 10 (Compromise, etc., by person under disability) applies—

- (a) the offer or payment may be accepted only with the leave of the Court; and
- (b) the money in court may not be paid out except in pursuance of an order of the Court.

(2) Where the Court grants leave to a plaintiff to accept a sanctioned offer or a sanctioned payment after the trial has commenced—

- (a) the money in court may not be paid out except in pursuance of an order of the Court; and
- (b) the Court shall, in the order, deal with the whole costs of the proceedings.

(3) Where a plaintiff accepts a sanctioned payment after a defence of tender before action has been put forward by the defendant, the money in court may not be paid out except in pursuance of an order of the Court.

(4) Where a plaintiff accepts a sanctioned payment made in satisfaction of—

- (a) a cause of action under the Fatal Accidents Ordinance (Cap. 22) and a cause of action under Part IV or IVA of the Law Amendment and Reform (Consolidation) Ordinance (Cap. 23); or
- (b) a cause of action under the Fatal Accidents Ordinance (Cap. 22) where more than one person is entitled to the money,

the money in court may not be paid out except in pursuance of an order of the Court.

IV. CONSEQUENCES OF SANCTIONED OFFER OR SANCTIONED PAYMENT

20. Costs consequences of acceptance of defendant's sanctioned offer or sanctioned payment (O. 22, r. 20)

(1) Where a defendant's sanctioned offer or sanctioned payment to settle the whole claim is accepted without requiring the leave of the Court, the plaintiff is entitled to his costs of the proceedings up to the date of serving notice of acceptance, unless the Court otherwise orders.

(2) Where—

- (a) a sanctioned offer or a sanctioned payment relating to a part of the claim or an issue arising from the claim is accepted; and
- (b) at the time of serving notice of acceptance the plaintiff abandons the other parts of the claim or other issues arising from the claim,

the plaintiff is entitled to his costs of the proceedings up to the date of serving notice of acceptance, unless the Court otherwise orders.

(3) The plaintiff's costs include any costs attributable to the defendant's counterclaim or set-off if the sanctioned offer or the sanctioned payment notice states that it takes into account the counterclaim or set-off.

21. Costs consequences of acceptance of plaintiff's sanctioned offer (O. 22, r. 21)

(1) Where a plaintiff's sanctioned offer to settle the whole claim is accepted without requiring the leave of the Court, the plaintiff is entitled to his costs of the proceedings up to the date upon which the defendant serves notice of acceptance, unless the Court otherwise orders.

(2) The plaintiff's costs include any costs attributable to the defendant's counterclaim or set-off if the sanctioned offer states that it takes into account the counterclaim or set-off.

22. Other consequences of acceptance of sanctioned offer or sanctioned payment (O. 22, r. 22)

(1) If a sanctioned offer or a sanctioned payment relates to the whole claim and is accepted, the claim is stayed.

(2) In the case of acceptance of a sanctioned offer which relates to the whole claim—

(a) the stay is upon the terms of the offer; and

(b) either party may apply to enforce those terms without the need to commence new proceedings.

(3) If a sanctioned offer or a sanctioned payment which relates only to a part of the claim or an issue arising from the claim is accepted—

(a) the claim is stayed as to that part or issue, and in the case of the sanctioned offer, the stay is upon the terms of the offer;

(b) either party may apply to enforce those terms without the need to commence new proceedings; and

(c) unless the parties have agreed on costs, the liability for costs shall be decided by the Court.

(4) If the approval of the Court is required before a settlement can be binding, any stay which would otherwise arise on the acceptance of a sanctioned offer or a sanctioned payment takes effect only when that approval has been given.

(5) Any stay arising under this rule does not affect the power of the Court—

(a) to enforce the terms of a sanctioned offer;

(b) to deal with any question of costs (including interest on costs) relating to the proceedings; or

(c) to order payment out of court of any sum paid into court.

(6) Where—

(a) a sanctioned offer has been accepted; and

(b) a party alleges that—

(i) the other party has not honoured the terms of the offer; and

(ii) he is therefore entitled to a remedy for breach of contract,

the party may claim the remedy by applying to the Court without the need to commence new proceedings unless the Court otherwise orders.

23. Costs consequences where plaintiff fails to do better than sanctioned offer or sanctioned payment (O. 22, r. 23)

- (1) This rule applies where a plaintiff—
 - (a) fails to obtain a judgment better than the sanctioned payment; or
 - (b) fails to obtain a judgment that is more advantageous than a defendant's sanctioned offer.
- (2) The Court may by order disallow all or part of any interest otherwise payable under section 49 of the Ordinance on the whole or part of any sum of money awarded to the plaintiff for some or all of the period after the latest date on which the payment or offer could have been accepted without requiring the leave of the Court.
- (3) The Court may order the plaintiff to pay any costs incurred by the defendant after the latest date on which the payment or offer could have been accepted without requiring the leave of the Court.
- (4) The Court may also order that the defendant is entitled to—
 - (a) his costs on the indemnity basis after the latest date on which the plaintiff could have accepted the payment or offer without requiring the leave of the Court; and
 - (b) interest on the costs referred to in paragraph (3) or subparagraph (a) at a rate not exceeding 10% above judgment rate.
- (5) Where this rule applies, the Court shall make the orders referred to in paragraphs (2), (3) and (4) unless it considers it unjust to do so.
- (6) In considering whether it would be unjust to make the orders referred to in paragraphs (2), (3) and (4), the Court shall take into account all the circumstances of the case including—
 - (a) the terms of any sanctioned payment or sanctioned offer;
 - (b) the stage in the proceedings at which any sanctioned payment or sanctioned offer was made;
 - (c) the information available to the parties at the time when the sanctioned payment or sanctioned offer was made; and
 - (d) the conduct of the parties with regard to the giving or refusing to give information for the purposes of enabling the payment or offer to be made or evaluated.
- (7) The power of the Court under this rule is in addition to any other power it may have to award or disallow interest.

24. Costs and other consequences where plaintiff does better than he proposed in his sanctioned offer (O. 22, r. 24)

- (1) This rule applies where—
 - (a) a defendant is held liable for more than the proposals contained in a plaintiff's sanctioned offer; or
 - (b) the judgment against a defendant is more advantageous to the plaintiff than the proposals contained in a plaintiff's sanctioned offer.
- (2) The Court may order interest on the whole or part of any sum of money (excluding interest) awarded to the plaintiff at a rate not exceeding 10% above judgment rate for some or all of the period after the latest date on which the defendant could have accepted the offer without requiring the leave of the Court.
- (3) The Court may also order that the plaintiff is entitled to—
 - (a) his costs on the indemnity basis after the latest date on which the defendant could have accepted the offer without requiring the leave of the Court; and
 - (b) interest on those costs at a rate not exceeding 10% above judgment rate.
- (4) Where this rule applies, the Court shall make the orders referred to in paragraphs (2) and (3) unless it considers it unjust to do so.
- (5) In considering whether it would be unjust to make the orders referred to in paragraphs (2) and (3), the Court shall take into account all the circumstances of the case including—
 - (a) the terms of any sanctioned offer;
 - (b) the stage in the proceedings at which any sanctioned offer was made;
 - (c) the information available to the parties at the time when the sanctioned offer was made; and
 - (d) the conduct of the parties with regard to the giving or refusing to give information for the purposes of enabling the offer to be made or evaluated.
- (6) The power of the Court under this rule is in addition to any other power it may have to award interest.

V. MISCELLANEOUS

25. Restriction on disclosure of sanctioned offer or sanctioned payment

(O. 22, r. 25)

(1) A sanctioned offer is treated as “without prejudice save as to costs”.

(2) The fact that a sanctioned payment has been made must not be communicated to the trial judge or the master hearing or determining the action or counterclaim or any question or issue as to the debt or damages until all questions of liability and the amount of money to be awarded have been decided.

(3) Paragraph (2) does not apply—

- (a) where the defence of tender before action has been raised;
- (b) where the proceedings have been stayed under rule 22 following acceptance of a sanctioned offer or a sanctioned payment; or

(c) where—

- (i) the issue of liability has been determined before any assessment of the money claimed; and
- (ii) the fact that there has or has not been a sanctioned payment may be relevant to the question of the costs of the issue of liability.

26. Interest (O. 22, r. 26)

(1) Unless—

- (a) a plaintiff’s sanctioned offer which offers to accept a sum of money; or
- (b) a sanctioned payment notice,

indicates to the contrary, any such offer or payment is to be treated as inclusive of all interest until the last date on which it could be accepted without requiring the leave of the Court.

(2) Where a plaintiff’s sanctioned offer or a sanctioned payment notice is expressed not to be inclusive of interest, the offer or notice must state—

- (a) whether interest is offered; and
- (b) if so, the amount offered, the rate or rates offered and the period or periods for which it is offered.

27. Money paid into court under order

(O. 22, r. 27)

(1) On making any payment into court under an order of the Court or a certificate of a master, the party making the payment shall give notice of the payment in Form No. 25A in Appendix A to every other party to the proceedings.

(2) Unless the Court otherwise orders, a defendant who has paid money into court in pursuance of an order made under Order 14 may—

(a) by notice served on the plaintiff, appropriate the whole or any part of the money and any additional payment, if necessary, in satisfaction of any particular claim made by the plaintiff and specified in the notice; or

(b) if he pleads a tender, by his pleading served on the plaintiff, appropriate the whole or any part of the money as payment into court of the money alleged to have been tendered.

(3) Any money appropriated in accordance with paragraph (2) is deemed to be—

(a) in the case of paragraph (2)(a), a sanctioned payment when the notice is served on the plaintiff; and

(b) in the case of paragraph (2)(b), money paid into court with a plea of tender when the pleading is served on the plaintiff,

and this Order applies accordingly.

(4) A notice served on the plaintiff in accordance with paragraph (2)(a) is deemed to be a sanctioned payment notice.

28. Transitional provision relating to Part 9 of Amendment Rules 2008

(O. 22, r. 28)

Where—

(a) a payment into court has been made in accordance with Order 22 (“the repealed Order”) repealed by rule 61 (“the repealing rule”) of the Amendment Rules 2008; and

(b) the disposal of the payment is pending immediately before the commencement of the repealing rule,

then nothing in Division 1 of Part 9 of the Amendment Rules 2008 applies in relation to that payment, and the repealed Order and all the other provisions amended or repealed by that Division, as in force immediately before the commencement, continue to apply in relation to that payment as if that Division had not been made.”.

62. Payment into court in satisfaction

Order 29, rule 16 is amended by repealing “Order 22, rule 1” and substituting “Order 22”.

63. When costs to follow the event

Order 62, rule 3(8) is repealed.

64. Special matters to be taken into account in exercising discretion

Order 62, rule 5(1) is amended by repealing subparagraph (*d*) and substituting—

“(d) any written offer which is expressed to be “without prejudice save as to costs” and which relates to any issue in the proceedings, but the Court may not take the offer into account if, at the time it is made, the party making it could have protected his position as to costs by means of a sanctioned payment or a sanctioned offer under Order 22;”.

65. When a party may sign judgment for costs without order

Order 62, rule 10 is amended—

(a) by repealing paragraphs (2), (3) and (4);

(b) in paragraph (5)—

(i) by repealing “each of”;

(ii) by repealing “in this rule” and substituting “in this rule, Order 22, rules 20 and 21 and Order 25, rule 4(6)”;

(iii) by repealing “respectively”.

66. Proceedings under Fatal Accidents Ordinance: apportionment by Court

Order 80, rule 15 is amended—

(a) in paragraph (1), by repealing “Order 22, rule 1, in satisfaction of causes of action arising under the Fatal Accidents Ordinance (Cap. 22) and sections 20 to 25” and substituting “Order 22, in satisfaction of a cause of action under the Fatal Accidents Ordinance (Cap. 22) and a cause of action under Part IV or IVA”;

- (b) in paragraph (2), by repealing “Order 22, rule 1” and substituting “Order 22”.

67. Provisions as to payment into court

Order 82, rule 4 is amended—

- (a) in paragraph (1)—

(i) by repealing “Order 22, rule 3(1)” and substituting “Order 22”;

(ii) by repealing “rule 3(4),”;

- (b) in paragraph (2), by repealing “Order 22, rule 7” and substituting “Order 22, rule 25”.

68. Applications with respect to funds in Court

Order 92, rule 5(5) is amended by repealing “Order 22” and substituting “Order 22A”.

69. Forms

(1) Appendix A is amended by repealing Form No. 23 and Form No. 24 and substituting—

"No. 23

Notice of sanctioned payment

(Order 22 rule 8(2))

(Heading as in action)

To the plaintiff('s solicitor) and to the Director of Legal Aid (if applicable)

Take notice that the defendant(s) _____ has/have paid \$ _____ (a further amount of \$ _____) into court in settlement of—
(tick as appropriate)

- the whole of your claim
 part of your claim (*give details below*)
 a certain issue or certain issues arising from your claim (*give details below*)

The (part) (issue or issues) to which it relates is(are): (*give details*)

- It is in addition to the amount of \$ _____ already paid into court on _____ and the total amount in court now offered in settlement is \$ _____ (*give total of all payments in court to date*)
 It is not inclusive of interest and an additional amount of \$ _____ is offered for interest (*give details of the rate(s) and period(s) for which the amount of interest is offered*)
 It takes into account all (part) of the following counterclaim or set off: (*give details of the party and the part of the counterclaim to which the payment relates*)
 It takes into account the interim payment(s) made in the following amount(s) on the following date(s): (*give details*)
 It takes into account the following sum(s) of money that has (have) been paid into court: (*give details*)
 It is part of the terms of a sanctioned offer set out in (identify the document). If you give notice of acceptance of this sanctioned payment, you will be treated as also accepting the sanctioned offer.

Note:—This notice will need to be modified where an offer of provisional damages is made (Order 22, rule 11).

Signed		Position or office held (If signing on behalf of a firm, company or corporation)	
Date		With company chop (if applicable)	

Note: To the plaintiff

If you wish to accept the payment made into court and the Court's leave for acceptance is not required, you should complete Form No. 24, send it to the defendant and file a copy in the Registry of the District Court.

No. 24

Notice of acceptance of sanctioned payment

(Order 22 rule 15(4))

(Heading as in action)

To the defendant('s solicitor) and to the Director of Legal Aid (if applicable)

Take notice that the plaintiff accepts the payment(s) into court totalling \$ _____ in settlement of (the whole of) (part of) (certain issue(s) arising from) *the plaintiff's claim as set out in the notice of sanctioned payment received on _____ (and abandons the other part(s) of or issue(s) arising from the plaintiff's claim).

Signed

Plaintiff('s solicitor)

Position or office held
(If signing on behalf of
a firm, company or
corporation)

Date

With company chop
(if applicable)

* Delete as appropriate

No. 25

Notice of request for payment

(Order 22 rule 17)

(Heading as in action)

On _____ I accepted the payment(s) into court totalling \$ _____ in settlement of (the whole of) (part of) (certain issue(s) arising from) *my claim as set out in the notice of sanctioned payment received on _____ (and abandoned the other part(s) of or issue(s) arising from my claim).*

I declare that:

- the sanctioned payment has been accepted [within 28 days] [after 28 days but costs have been agreed] [less than 28 days before trial but costs have been agreed]*
- the payment into court was not made with a defence of tender
- the offeree is not a person under disability
- [at no time has the offeree been on legal aid in these proceedings] [the offeree has been on legal aid]*
- there is no pending application to withdraw or diminish the sanctioned payment
- [there is only 1 defendant] [the sanctioned payment is made by all defendants] [I have discontinued my claim against those defendants who have not made the sanctioned payment and they have given written consent to the acceptance of the sanctioned payment]*
- [my claim does not include a claim for provisional damages] [my claim for provisional damages has been disposed of under Order 37, rule 8]*

(If any of the above declarations has not been made, the money in court can only be paid out by order of the Court)

- a copy of this notice has been served on the defendant('s solicitor) named below and I request payment of this money held in court to be made to:

Plaintiff or solicitor's full name/Director of Legal Aid*

Address and telephone number

Signature

Note: Before signing this form please read the notes for guidance overleaf. Incorrectly signed forms may be returned unactioned.

Signed

Date

DETAILS OF PLAINTIFF'S SOLICITOR

Name of firm

Solicitor for

Defendant or solicitor's full name/Director of Legal Aid*

Address and telephone number

Signature

Note: The plaintiff('s solicitor) should obtain the signature of the defendant('s solicitor) on the box below before serving a copy of this notice on him

Signed

Date

DETAILS OF DEFENDANT'S SOLICITOR

Name of firm

Solicitor for

* Delete as appropriate

Notes for guidance on completion of Form No. 25

In order to request payment out of funds in court, file this form, signed and completed in accordance with these notes for guidance in the Registry of the District Court. A copy of this form should also be sent to the defendant('s solicitors).

- When completing this form, please ensure that you tick all of the boxes under the heading: **'I declare that'**. If you do not tick all of the boxes, the Registry of the District Court will not be able to process your request for payment and will have to return the form to you.
- The form should be signed either by the plaintiff or his solicitor.
- The Accounts Office of the District Court will only issue payment upon receipt of a properly completed Form No. 25 with an original signature. Faxed copies of the form and photocopies of signatures will not be accepted and will be returned to sender.

No. 25A

Notice of payment into court under order or certificate

(Order 22 rule 27(1))

(Heading as in action)

Take notice that the plaintiff/defendant _____ has paid \$ _____ into court in compliance with the order/certificate of _____ dated _____.

Signed		Position or office held (If signing on behalf of a firm, company or corporation)	
	Plaintiff/Defendant('s solicitor)		
Date		With company chop (if applicable)	

Solicitors' certificate

We certify that—

- (a) the payment is made within time.
- *(b) there is no direction in the order for investment of the money.
- *(c) the Court has directed that the money be invested in the following manner—

Signed	Date
--------	------

SOLICITOR'S DETAILS

Name of firm
Solicitor for

* Delete as appropriate”.

(2) Appendix A is amended by repealing Form No. 51.

70. Order added

The following is added immediately after Order 22—

“ORDER 22A

MISCELLANEOUS PROVISIONS ABOUT PAYMENTS INTO COURT

1. Money remaining in court

(O. 22A, r. 1)

(1) Subject to Order 22, rule 17, any money paid into court in an action (whether or not in accordance with Order 22) may not be paid out except in pursuance of an order of the Court which may be made at any time before, at or after the trial or hearing of the action.

(2) Where an order under paragraph (1) is made before the trial or hearing and the money in court is a sanctioned payment made in accordance with Order 22, the money may not be paid out except—

- (a) in satisfaction of the cause or causes of action in respect of which it was paid in; or
- (b) to the extent to which the sanctioned payment may be withdrawn or diminished pursuant to Order 22.

2. Person to whom payment to be made (O. 22A, r. 2)

(1) Where the party entitled to money in court is a person in respect of whom a certificate is or has been in force entitling him to legal aid under the Legal Aid Ordinance (Cap. 91), payment shall be made only to the Director of Legal Aid without the need for any authority from the party.

(2) Subject to paragraph (1), payment shall be made to the party entitled or to his solicitor.

(3) This rule applies whether the money in court has been paid into court under Order 22 or under an order of the Court or a certificate of the Registrar.

3. Payment out: small intestate estates (O. 22A, r. 3)

Where—

- (a) a person entitled to a fund in court, or a share of such fund, dies intestate;
- (b) the Court is satisfied that no grant of administration of his estate has been made; and
- (c) the assets of his estate, including the fund or share, do not exceed \$150,000 in value,

it may order that the fund or share shall be paid, transferred or delivered to the person who, being a widower, widow, child, father, mother, brother or sister of the deceased, would have the prior right to a grant of administration of the estate of the deceased.

4. Investment of money in court

(O. 22A, r. 4)

Cash under the control of or subject to the order of the Court may be invested in any manner specified in the District Court Suitors' Funds Rules (Cap. 336 sub. leg. E) and the Trustee Ordinance (Cap. 29)."

Division 2—Recommendation 132

71. Order added

The following is added immediately after Order 62—

“ORDER 62A

COSTS OFFER AND PAYMENTS INTO COURT

I. PRELIMINARY

1. Interpretation and application

(O. 62A, r. 1)

(1) In this Order—

“costs offer” (訟費提議) means an offer to settle—

- (a) a party's entitlement to costs that are the subject of a taxation; and
- (b) the costs of the taxation;

“offeree” (受提議者) means the party to whom a costs offer is made;

“offeror” (提議者) means the party who makes a costs offer;

“paying party” (支付方) means the party liable to pay costs;

“receiving party” (收取方), in relation to a paying party, means the party who is entitled to payment of costs from that paying party;

“relevant date” (有關日期), in relation to a taxation, means—

- (a) the date on which the bill of costs is taxed under Order 62, rule 21B(1); or
- (b) the date set down under Order 62, rule 21C(1) for hearing the taxation;

“sanctioned offer” (附帶條款和解提議) means a costs offer made (otherwise than by way of a payment into court) in accordance with this Order;

“sanctioned payment” (附帶條款付款) means a costs offer made by way of a payment into court in accordance with this Order;

“sanctioned payment notice” (附帶條款付款通知書) means the notice relating to a sanctioned payment required to be filed under rule 8(2).

(2) This Order does not apply to or in relation to a party who is or has been an aided person in the relevant proceedings.

2. Offer to settle with specified consequences (O. 62A, r. 2)

(1) Any party to a taxation may make a costs offer in accordance with this Order.

(2) An offer made under paragraph (1) has the consequences specified in rules 18, 19 and 20 (as may be applicable).

(3) Nothing in this Order prevents a party from making a costs offer in whatever way he chooses, but if that costs offer is not made in accordance with this Order, it does not have the consequences specified in this Order, unless the Court so orders.

II. MANNER OF MAKING SANCTIONED OFFER OR SANCTIONED PAYMENT

3. Paying party's costs offer requires sanctioned payment (O. 62A, r. 3)

(1) A costs offer by a paying party does not have the consequences specified in this Order unless it is made by way of a sanctioned payment.

(2) A sanctioned payment may be made at any time before the relevant date.

4. Receiving party's costs offer requires sanctioned offer (O. 62A, r. 4)

A costs offer by a receiving party does not have the consequences specified in this Order unless it is made by way of a sanctioned offer.

5. Form and content of sanctioned offer

(O. 62A, r. 5)

- (1) A sanctioned offer must be in writing.
- (2) A sanctioned offer may relate to the whole or part of the costs.
- (3) A sanctioned offer must state whether it relates to the whole or part of the costs, and if it relates to part of the costs, to which part does it relate.
- (4) A sanctioned offer may be made at any time before the relevant date.
- (5) A sanctioned offer must provide that after the expiry of 14 days from the date the sanctioned offer is made, the offeree may only accept it if—
 - (a) the parties agree on the liability for and quantum of costs of taxation incurred after the period; or
 - (b) the Court grants leave to accept it.

6. Service of sanctioned offer

(O. 62A, r. 6)

A receiving party who makes a sanctioned offer shall serve the sanctioned offer on the paying party.

7. Withdrawal or diminution of sanctioned offer

(O. 62A, r. 7)

- (1) A sanctioned offer may not be withdrawn or diminished before the expiry of 14 days from the date the sanctioned offer is made unless the Court grants leave to withdraw or diminish it.
- (2) If there is subsisting an application to withdraw or diminish a sanctioned offer, the sanctioned offer may not be accepted unless the Court grants leave to accept it.
- (3) If the Court dismisses an application to withdraw or diminish a sanctioned offer or grants leave to diminish the sanctioned offer, it may by order specify the period within which the sanctioned offer or diminished sanctioned offer may be accepted.
- (4) If a sanctioned offer is withdrawn, it does not have the consequences specified in this Order.

8. Notice of sanctioned payment

(O. 62A, r. 8)

- (1) A sanctioned payment may relate to the whole or part of the costs.

(2) A paying party who makes a sanctioned payment shall file with the Court a notice in Form No. 93 in Appendix A, that—

- (a) states the amount of the payment;
- (b) states whether the payment relates to the whole or part of the costs, and if it relates to part of the costs, to which part it relates;
- (c) if an interim payment of costs has been made, states that the paying party has taken into account the interim payment;
- (d) if it is expressed not to be inclusive of interest, states—
 - (i) whether interest is offered; and
 - (ii) if so, the amount offered, the rate or rates offered and the period or periods for which it is offered; and
- (e) if a sum of money has been paid into court as security for the costs of the action, cause or matter, states whether the sanctioned payment has taken into account that sum of money.

9. Service of sanctioned payment

(O. 62A, r. 9)

A paying party who makes a sanctioned payment shall—

- (a) serve the sanctioned payment notice on the receiving party; and
- (b) file with the Court a certificate of service of the notice.

10. Withdrawal or diminution of sanctioned payment

(O. 62A, r. 10)

(1) A sanctioned payment may not be withdrawn or diminished before the expiry of 14 days from the date the sanctioned payment is made unless the Court grants leave to withdraw or diminish it.

(2) If there is subsisting an application to withdraw or diminish a sanctioned payment, the sanctioned payment may not be accepted unless the Court grants leave to accept it.

(3) If the Court dismisses an application to withdraw or diminish a sanctioned payment or grants leave to diminish the sanctioned payment, it may by order specify the period within which the sanctioned payment or diminished sanctioned payment may be accepted.

(4) If a sanctioned payment is withdrawn, it does not have the consequences specified in this Order.

11. Time when sanctioned offer or sanctioned payment is made and accepted (O. 62A, r. 11)

- (1) A sanctioned offer is made when it is served on the offeree.
- (2) A sanctioned payment is made when a sanctioned payment notice is served on the offeree.
- (3) An amendment to a sanctioned offer is effective when its details are served on the offeree.
- (4) An amendment to a sanctioned payment is effective when notice of the amendment is served on the offeree.
- (5) A sanctioned offer or a sanctioned payment is accepted when notice of its acceptance is served on the offeror.

12. Clarification of sanctioned offer or sanctioned payment notice (O. 62A, r. 12)

- (1) The offeree may, within 7 days of a sanctioned offer or sanctioned payment being made, request the offeror to clarify the offer or payment notice.
- (2) If the offeror does not give the clarification requested under paragraph (1) within 7 days of service of the request, the offeree may, before the relevant date, apply for an order that he does so.
- (3) If the Court makes an order pursuant to an application made under paragraph (2), it shall specify the date when the sanctioned offer or sanctioned payment is to be treated as having been made.

**III. ACCEPTANCE OF SANCTIONED OFFER
OR SANCTIONED PAYMENT**

13. Time for acceptance of paying party's sanctioned payment (O. 62A, r. 13)

- (1) Subject to rule 10(2) and paragraph (2), a receiving party may accept a sanctioned payment at any time before the relevant date without requiring the leave of the Court if he files with the Court and serves on the paying party a written notice of acceptance not later than 14 days after the payment was made.
- (2) If the receiving party does not accept a paying party's sanctioned payment within the 14-day period specified in paragraph (1), then the receiving party may—

- (a) if the parties agree on the liability for and quantum of costs of taxation incurred after the expiry of the period, accept the payment without the leave of the Court; and
- (b) if the parties do not agree on the liability for and quantum of costs of taxation incurred after the expiry of the period, only accept the payment with the leave of the Court.

(3) Where the leave of the Court is required under paragraph (2), the Court shall, if it grants leave, make an order as to costs.

(4) A notice of acceptance of a sanctioned payment must be in Form No. 93A in Appendix A.

14. Time for acceptance of receiving party's sanctioned offer

(O. 62A, r. 14)

(1) Subject to rule 7(2) and paragraph (2), a paying party may accept a sanctioned offer at any time before the relevant date without requiring the leave of the Court if he files with the Court and serves on the receiving party a written notice of acceptance not later than 14 days after the offer was made.

(2) If the paying party does not accept a receiving party's sanctioned offer within the 14-day period specified in paragraph (1), then the paying party may—

- (a) if the parties agree on the liability for and quantum of costs of taxation incurred after the expiry of the period, accept the offer without the leave of the Court; and
- (b) if the parties do not agree on the liability for and quantum of costs of taxation incurred after the expiry of the period, only accept the offer with the leave of the Court.

(3) Where the leave of the Court is required under paragraph (2), the Court shall, if it grants leave, make an order as to costs.

15. Payment out of a sum in court on acceptance of sanctioned payment

(O. 62A, r. 15)

Subject to rule 16(4), where a sanctioned payment is accepted, the receiving party may obtain payment out of the sum in court by making a request for payment in Form No. 93B in Appendix A.

16. Acceptance of sanctioned payment made by one or more, but not all, paying parties (O. 62A, r. 16)

(1) This rule applies where the receiving party wishes to accept a sanctioned payment made by one or more, but not all, of a number of paying parties.

(2) If the paying parties are jointly and severally liable to pay costs, the receiving party may accept the payment in accordance with rule 13 if—

- (a) he discontinues the proceedings for taxation against those paying parties who have not made the payment; and
- (b) those paying parties give written consent to the acceptance of the payment.

(3) If the paying parties are not jointly, but severally liable to pay costs, the receiving party may—

- (a) accept the payment in accordance with rule 13; and
- (b) continue with his proceedings for taxation against the other paying parties.

(4) In all other cases the receiving party shall apply to the Court for—

- (a) an order permitting a payment out to him of any sum in court; and
- (b) such order as to costs relating to the taxation as the Court considers appropriate.

17. Cases where court order is required to enable acceptance of sanctioned offer or sanctioned payment (O. 62A, r. 17)

Where a sanctioned offer or a sanctioned payment is made in proceedings to which Order 80, rule 10 (Compromise, etc., by person under disability) applies—

- (a) the offer or payment may be accepted only with the leave of the Court; and
- (b) no payment out of any sum in court may be made without a court order.

IV. CONSEQUENCES OF SANCTIONED OFFER
OR SANCTIONED PAYMENT

18. Consequences of acceptance of sanctioned offer or sanctioned payment (O. 62A, r. 18)

(1) If a sanctioned offer or a sanctioned payment relates to the whole costs and is accepted, the taxation is stayed.

(2) In the case of acceptance of a sanctioned offer which relates to the whole costs—

(a) the stay is upon the terms of the offer; and

(b) either party may apply to enforce those terms without the need to commence new proceedings.

(3) If a sanctioned offer or a sanctioned payment which relates to part only of the costs is accepted, the taxation is stayed as to that part.

(4) If the approval of the Court is required before a settlement as to costs can be binding, any stay which would otherwise arise on the acceptance of a sanctioned offer or a sanctioned payment takes effect only when that approval has been given.

(5) Any stay arising under this rule does not affect the power of the Court—

(a) to enforce the terms of a sanctioned offer;

(b) to deal with any question of costs (including interest on costs) relating to the taxation; or

(c) to order payment out of court of any sum paid into court.

(6) Where—

(a) a sanctioned offer has been accepted; and

(b) a party alleges that—

(i) the other party has not honoured the terms of the offer; and

(ii) he is therefore entitled to a remedy for breach of contract,

the party may claim the remedy by applying to the Court without the need to commence new proceedings unless the Court orders otherwise.

19. Costs consequences where receiving party fails to better sanctioned payment (O. 62A, r. 19)

(1) This rule applies where upon taxation a receiving party fails to better a sanctioned payment.

(2) The taxing master may by order disallow all or part of any interest otherwise payable under section 50 of the Ordinance on the whole or part of the amount of the costs awarded to the receiving party for some or all of the period after the latest date on which the payment could have been accepted without requiring the leave of the Court.

(3) The taxing master may also—

(a) order the receiving party to pay the costs of the taxation on the indemnity basis after the date on which the payment was made; and

(b) order that the paying party is entitled to interest on those costs at a rate not exceeding 10% above judgment rate.

(4) Where this rule applies, the taxing master shall make the orders referred to in paragraphs (2) and (3) unless he considers it unjust to do so.

(5) In considering whether it would be unjust to make the orders referred to in paragraphs (2) and (3), the taxing master shall take into account all the circumstances of the case including—

(a) the terms of the sanctioned payment;

(b) the stage in the proceedings at which the sanctioned payment was made;

(c) the information available to the parties at the time when the sanctioned payment was made; and

(d) the conduct of the parties with regard to the giving or refusing to give information for the purposes of enabling the payment to be made or evaluated.

(6) The power of the taxing master under this rule is in addition to any other power he may have to award or disallow interest.

20. Costs and other consequences where receiving party does better than he proposed in his sanctioned offer

(O. 62A, r. 20)

(1) This rule applies where upon taxation a paying party is held liable for more than the proposals contained in a receiving party's sanctioned offer.

(2) The taxing master may order interest on the whole or part of the amount of the costs allowed to the receiving party at a rate not exceeding 10% above judgment rate for some or all of the period after the date on which the sanctioned offer was served on the paying party.

(3) The taxing master may also order that the receiving party is entitled to—

- (a) his costs on the indemnity basis after the date on which the sanctioned offer was served on the paying party; and
- (b) interest on those costs at a rate not exceeding 10% above judgment rate.

(4) Where this rule applies, the taxing master shall make the orders referred to in paragraphs (2) and (3) unless he considers it unjust to do so.

(5) In considering whether it would be unjust to make the orders referred to in paragraphs (2) and (3), the taxing master shall take into account all the circumstances of the case including—

- (a) the terms of the sanctioned offer;
- (b) the stage in the proceedings at which the sanctioned offer was made;
- (c) the information available to the parties at the time when the sanctioned offer was made; and
- (d) the conduct of the parties with regard to the giving or refusing to give information for the purposes of enabling the offer to be made or evaluated.

(6) The power of the taxing master under this rule is in addition to any other power he may have to award interest.

V. MISCELLANEOUS

21. Restriction on disclosure of sanctioned offer or sanctioned payment (O. 62A, r. 21)

(1) A sanctioned offer is treated as “without prejudice save as to costs”.

(2) The fact that a sanctioned payment has been made must not be communicated to the taxing master until the amount of the costs to be allowed have been decided.

(3) Paragraph (2) does not apply—

- (a) where the taxation has been stayed under rule 18 following acceptance of a sanctioned payment; and
- (b) where the fact that there has or has not been a sanctioned payment may be relevant to the question of the costs of the issue of liability.

22. Interest (O. 62A, r. 22)

(1) Unless—

(a) a receiving party's sanctioned offer; or

(b) a sanctioned payment notice,

indicates to the contrary, any such offer or payment is to be treated as inclusive of all interest until the last date on which it could be accepted without requiring the leave of the Court.

(2) Where a receiving party's sanctioned offer or a sanctioned payment notice is expressed not to be inclusive of interest, the offer or notice must state—

(a) whether interest is offered; and

(b) if so, the amount offered, the rate or rates offered and the period or periods for which it is offered.”.

72. Forms

Appendix A is amended by adding—

"No. 93

Notice of sanctioned payment (Order 62A)

(Order 62A rule 8(2))

(Heading as in action)

To the receiving party('s solicitor)

Take notice that the paying party _____ has paid \$ _____ (a further amount of \$ _____) into court in settlement of—
(tick as appropriate)

- the whole of your costs including the costs of taxation (for the bill dated _____)
- part of your costs *(give details below)*
- It is in addition to the amount of \$ _____ already paid into court on _____ and the total amount in court now offered in settlement of your costs is \$ _____ *(give total of all payments in court to date)*
- It is not inclusive of interest and an additional amount of \$ _____ is offered for interest *(give details of the rate(s) and period(s) for which the amount of interest is offered)*
- It takes into account the interim payment(s) of costs made in the following amount(s) on the following date(s): *(give details)*
- It takes into account the following sum(s) of money that has (have) been paid into court as security for the costs of the action, cause or matter: *(give details)*

Signed

Paying party('s solicitor)

Position or office held
(If signing on behalf of a firm, company or corporation)**Date****With company chop**
(if applicable)**Note: To the receiving party**

If you wish to accept the payment made into court and the Court's leave for acceptance is not required, you should complete Form No. 93B and file it in the Registry of the District Court, and send a copy to the paying party.

No. 93A

Notice of acceptance of sanctioned payment (Order 62A)

(Order 62A rule 13(4))

(Heading as in action)

To the paying party('s solicitor)

Take notice that the receiving party accepts the payment(s) into court totalling \$_____ in settlement of (the whole of) (part of) the receiving party's costs as set out in the notice of sanctioned payment received on _____ (and abandons the other part(s) of the costs).

Signed

Receiving party('s solicitor)

Position or office held
(If signing on behalf of
a firm, company or
corporation)

Date

With company chop
(if applicable)

No. 93B

Notice of request for payment (Order 62A)

(Order 62A rule 15)

(Heading as in action)

On _____ I accepted the payment(s) into court totalling \$ _____ in settlement of (the whole of) (part of) my costs as set out in the notice of sanctioned payment received on _____.

I declare that:

- the sanctioned payment has been accepted [within 14 days] [after 14 days but liability for and quantum of costs incurred after the 14-day period have been agreed]*
- the offeree is not a person under disability
- [at no time has the offeree been on legal aid in these proceedings] [the offeree has been on legal aid]*
- there is no pending application to withdraw or diminish the sanctioned payment
- [there is only one paying party] [the sanctioned payment is made by all paying parties] [I have discontinued the proceedings for taxation against those paying parties who have not made the payment and they have given written consent to the acceptance of the sanctioned payment]*

(If any of the above declarations has not been made, the money in court can only be paid out by order of the Court)

- a copy of this notice has been served on the paying party('s solicitor) named below and I request payment of this money held in court to be made to:

Receiving party or solicitor's full name
--

Address and telephone number

Signature

Note: Before signing this form please read the notes for guidance overleaf. Incorrectly signed forms may be returned unactioned.

Signed

Date

DETAILS OF RECEIVING PARTY'S SOLICITOR

Name of firm

Solicitor for

Paying party or solicitor's full name/Director of Legal Aid*

Address and telephone number

Signature

Note: The receiving party('s solicitor) should obtain the signature of the paying party('s solicitor) on the box below before serving a copy of this notice on him.

Signed

Date

DETAILS OF PAYING PARTY'S SOLICITOR

Name of firm

Solicitor for

* Delete as appropriate

Notes for guidance on completion of Form No. 93B

In order to request payment out of funds in court, file this form, signed and completed in accordance with these notes for guidance in the Registry of the District Court. A copy of this form should also be sent to the paying party's solicitors.

- When completing this form, please ensure that you tick all of the boxes under the heading: **'I declare that'**. If you do not tick all of the boxes, the Registry of the District Court will not be able to process your request for payment and will have to return the form to you.
- The form should be signed either by the receiving party or his solicitor.
- The Accounts Office of the District Court will only issue payment upon receipt of a properly completed Form No. 93B with an original signature. Faxed copies of the form and photocopies of signatures will not be accepted.
- A director of a company must obtain leave to represent the company from a Practice Master before he may sign on behalf of the company.” .

PART 10**CASE MANAGEMENT TIMETABLING AND MILESTONES****Recommendations 52 to 60 and 62****73. Directions**

Order 14, rule 6(1) is amended by repealing everything after “conduct of the action, and” and substituting “Order 25, rules 5 to 10, 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 with any other necessary modifications, apply as if the application under rule 1 of this Order or rule 5 thereof, as the case may be, on which the order was made were a case management summons.”.

74. Discovery

Order 17, rule 10 is amended by repealing “Orders 23A” and substituting “Orders 24”.

75. Trial without pleadings

Order 18, rule 21(3) is amended by repealing everything after “it may,” and substituting—

“give such directions as to the further conduct of the action as may be appropriate, and Order 25, rules 5 to 10—

(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 under this rule were a case management summons.”.

76. Discontinuance of action, etc., with leave

Order 21, rule 3(2) is amended by repealing “Order 23A, rule 8(2)” and substituting “Order 25, rule 10”.

77. Stay of subsequent action until costs paid

Order 21, rule 5(2) is amended by repealing “Order 23A, rule 8(2)” and substituting “Order 25, rule 10”.

78. Directions for actions begun by writ

Order 23A is repealed.

79. Order for discovery

Order 24, rule 3(4) is repealed.

80. Order for determination of issue, etc., before discovery

Order 24, rule 4(2) is amended by repealing everything after “issue or question,” and substituting—

“Order 25, rules 5 to 10—

(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.”.

81. Order added

The following is added—

“ORDER 25

CASE MANAGEMENT SUMMONS AND CONFERENCE

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

(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 or 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 that they wish the Court to make; or
 - (b) a timetable for the steps to be taken between the date of the giving of those directions and the date of the trial,
- they shall procure an order to that effect by way of a consent summons.
- (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 a specialist list is pending; and
 - (g) 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 are to 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 date of the giving of those directions and the date of 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 date of the giving of those directions and the date of the case management conference; and
- (b) at 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, and the timetable must include—
 - (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) must include—

- (a) a date for a pre-trial review; or
- (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 date of the giving of those directions and the date of the trial.

(5) The order nisi becomes absolute 14 days after the order is made unless a party has applied to the Court for varying the order.

(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 may apply to the Court if he wishes to vary a milestone date.

(3) The Court shall not grant an application under paragraph (2) unless there are exceptional circumstances justifying the variation.

(4) A non-milestone date may be varied by procuring an order to that effect by way of a consent summons.

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

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

(7) Whether or not sufficient grounds have been shown to it, the Court shall not grant an application under paragraph (5) if the variation would make it necessary to change a trial date or the period in which the trial is to take place.

(8) In this rule—
“milestone date” (進度指標日期) 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 period fixed by the Court in which a trial is to take place;
“non-milestone date” (非進度指標日期) 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 plaintiff's claim.

(2) Where the defendant has made a counterclaim in the action and he does not appear at the case management conference or pre-trial review, the Court shall provisionally strike out the defendant's counterclaim.

(3) Where the Court has provisionally struck out a claim or counterclaim under paragraph (1) or (2), the plaintiff or the defendant 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 claim or counterclaim.

(4) The Court may restore the claim or counterclaim subject to such conditions as it thinks fit or refuse to restore it.

(5) The Court shall not restore the claim or counterclaim unless good reasons have been shown to the satisfaction of the Court.

(6) If the plaintiff or the defendant does not apply under paragraph (3) or his application under that paragraph is refused, then—

(a) the plaintiff's claim or the defendant's counterclaim stands 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) (i) in the case of the plaintiff's claim, the defendant is entitled to his costs of the claim; and

(ii) in the case of the defendant's counterclaim, the plaintiff is entitled to his costs of the counterclaim.

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 are 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) 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;
- (c) 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) 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.

(3) 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.

(4) 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 (O. 25, r. 13)

(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).

(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” (已廢除的第 23A 號命令) means Order 23A repealed by rule 78 of the Amendment Rules 2008;

“repealed Order 34” (已廢除的第 34 號命令) means Order 34 repealed by rule 151 of the Amendment Rules 2008.”.

82. Discovery by interrogatories

Order 26, rule 1(2) is amended by repealing “Order 23A, rule 8(2)” and substituting “Order 25, rule 10”.

83. Notice to admit

Order 27, rule 2(1) is amended by repealing everything after “the expiration of” and before “, serve on” and substituting “21 days after the cause or matter is set down for trial”.

84. Admission and production of documents specified in list of documents

Order 27, rule 4 is amended—

- (a) in paragraphs (1) and (3), by repealing “any order or direction made or taking effect under Order 23A or 24” and substituting “any provision of Order 24”;
- (b) in paragraph (4), by repealing “any order or direction made or taking effect under Order 23A or 24” and substituting “any provision of that Order”.

85. Notices to admit or produce documents

Order 27, rule 5 is amended—

- (a) in paragraph (1), by repealing everything after “the expiration of” and before “, serve on” and substituting “21 days after the cause or matter is set down for trial”;
- (b) in paragraph (2), by repealing “14 days” and substituting “21 days”.

86. Directions, etc., by Court

Order 28, rule 4(4) is amended—

- (a) by repealing “on a directions hearing under Order 23A” and substituting “under Order 25”;
- (b) by repealing “summons for directions” and substituting “case management summons”.

87. Continuation of proceedings as if cause or matter begun by writ

Order 28, rule 8(2) is repealed and the following substituted—

“(2) Where the Court decides to make such an order, Order 25, rules 5 to 10—

(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 there had been a case management summons in the proceedings and that order were one of the orders to be made thereon.”.

88. Order for hearing or trial

Order 28, rule 9(4) is amended by repealing “a pre-trial review” and substituting “the case management summons”.

89. Detention, preservation, etc., of subject-matter of cause or matter

Order 29, rule 2(5) is amended by adding “or by notice under Order 25, rule 10” after “by summons”.

90. Directions

Order 29, rule 7(2) is repealed and the following substituted—

“(2) If, in an action begun by writ, not being any such action as is mentioned in subparagraphs (a), (b), (c), (e) and (f) of Order 25, rule 1(4), the Court thinks fit to give directions under this rule before the case management summons, then rules 5 to 10 of that Order—

(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 desire; and

(b) with any other necessary modifications, apply as if the application were a case management summons.”.

91. Rule substituted

Order 29, rule 14 is repealed and the following substituted—

“14. Directions on application under rule 10 (O. 29, r. 14)

Where an application is made under rule 10—

- (a) the Court may give directions as to the further conduct of the action; and
- (b) so far as may be applicable, Order 25, rules 5 to 10—
 - (i) 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 require; and
 - (ii) with any other necessary modifications, apply as if the application were a case management summons; and
- (c) in particular, the Court may order an early trial of the action.”.

92. Determining the place and mode of trial

Order 33, rule 4(1) is amended by repealing everything after “by writ,” and substituting “the Court shall by order determine the place and mode of the trial.”.

93. Rule added

Order 37 is amended by adding—

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

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

94. Application for award of further damages

Order 37, rule 10 is amended—

- (a) in paragraph (4), by repealing “summons for directions under Order 23A, rule 7,” and substituting “case management summons”;
- (b) in paragraph (5), by repealing “On the directions hearing” and substituting “At the determination of the case management summons”.

95. Exchange of witness statements

Order 38, rule 2A is amended—

- (a) in paragraph (4), by repealing “or Order 23A”;
- (b) in paragraph (6), by repealing “paragraph (2) or Order 23A” and substituting “this rule”;
- (c) in paragraph (10), by repealing “given under paragraph (2), or as the case may be, under Order 23A” and substituting “for the exchange of witness statements”.

96. Evidence of finding on foreign law

Order 38, rule 7(1)(a) is amended by repealing “Order 23A, rule 1(1) applies, within 14 days” and substituting “Order 25, rule 1 applies, within 28 days”.

97. Directions in particular proceedings

Order 72, rule 8 is amended—

- (a) in paragraph (1)—
 - (i) by repealing “Order 23A” and substituting “Order 25, rule 1(3)(b)”;
 - (ii) by repealing “summons for directions” and substituting “case management summons”;
- (b) in paragraph (2)—
 - (i) by repealing “Order 23A, rules 2 and 7 to 13” and substituting “Order 25, rules 5 to 10”;
 - (ii) by repealing “rule 7(1)” and substituting “rule 10(1)”;
 - (iii) by repealing “summons for directions” and substituting “case management summons”.

98. Discovery and interrogatories

Order 77, rule 12(1) is amended by repealing “Order 23A, rule 5” and substituting “Order 24, rules 1 and 2”.

99. Procedure in Court after transfer

Order 78, rule 3(2) is amended by repealing “conduct a directions hearing under Order 23A, rule 9” and substituting “set the action or proceeding down before a master who shall make such directions as he sees fit for the further conduct of the action or proceeding”.

100. Directions

Order 86, rule 5 is amended by repealing everything after “conduct of the action,” and substituting—

“and 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 require; and
- (b) with any other necessary modifications, apply as if the application under rule 1 were a case management summons.”.

PART 11**DISCOVERY****Division 1—Recommendations 76 and 79****101. Application under section 47A or 47B(1) of the Ordinance**

Order 24, rule 7A is amended—

- (a) in paragraph (3)—
 - (i) in subparagraph (a), by repealing “in which a claim for personal injuries is likely to be made”;
 - (ii) in subparagraph (b), by repealing “out of a claim for personal injuries made or likely to be made”;
- (b) by adding—

“(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)”.”;

(c) by repealing paragraph (7).

102. Discovery to be ordered only if necessary

Order 24, rule 8 is amended—

(a) by renumbering it as Order 24, rule 8(1);

(b) in paragraph (1), by repealing “3, 7 or 7A” and substituting “3 or 7”;

(c) by adding—

“(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.”.

Division 2—Recommendation 80

103. Rule added

Order 24 is amended by adding—

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

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.”.

PART 12

INTERLOCUTORY APPLICATIONS

Division 1—Recommendations 83, 85 and 86

104. Rules added

Order 32 is amended by adding—

“16A. Interlocutory applications

(O. 32, r. 16A)

- (1) A master may—
 - (a) determine an interlocutory application without an oral hearing; or
 - (b) adjourn the application to be heard before him or another master or a judge in chambers.
- (2) The master may fix a date on which he may—
 - (a) in the case of paragraph (1)(a), hand down his determination of the application; and
 - (b) in the case of paragraph (1)(b), make an order that the application be heard before him or another master or a judge in chambers on a date specified in the order.
- (3) The master may give such directions as he thinks necessary or desirable for the purpose of determining the application, including directions for—
 - (a) the setting of a timetable for the steps to be taken between the date of the giving of those directions and the date of the determination of the application;
 - (b) the filing of evidence and arguments;
 - (c) the filing of a statement of costs in respect of the application; and
 - (d) the filing of a statement of grounds in opposition to the statement of costs referred to in subparagraph (c).
- (4) Where the determination of the application is adjourned for the hearing of the summons, no further evidence may be adduced unless it appears to the Court that there are exceptional circumstances making it desirable that further evidence should be adduced.
- (5) Paragraph (4) is subject to a direction given under paragraph (3).
- (6) This rule does not apply to—
 - (a) an application under Order 2, rule 4 for relief from any sanction imposed by a court order; and

- (b) an application to extend or shorten the time for compliance with a court order.

16B. Court's power to specify consequences of failure to comply with court order on interlocutory application
(O. 32, r. 16B)

(1) Where the Court makes an order on an interlocutory application before—

- (a) a case management summons in the action is taken out under Order 25; or
(b) it gives directions relating to the management of the case under Order 25, rule 2(1)(a), (2)(a) or (4),

it may, if it thinks appropriate to do so, specify the consequences of failing to comply with the order.

(2) Where the Court makes an order on an interlocutory application after—

- (a) a case management summons in the action taken out under Order 25 has been dealt with by the Court; or
(b) it has given directions relating to the management of the case under Order 25, rule 2(1)(a), (2)(a) or (4),

it shall, unless there are special circumstances which render it inexpedient to do so, specify the consequences of failing to comply with the Order.

(3) The consequences specified under paragraph (1) or (2) must be appropriate and proportionate in relation to the non-compliance.”.

Division 2—Jurisdiction of Registrar and Master

105. Rule added

Order 32 is amended by adding immediately after rule 8—

“8A. Application for a direction under the Limitation Ordinance
(O. 32, r. 8A)

The jurisdiction to direct, under section 30 of the Limitation Ordinance (Cap. 347), that section 27 or 28 of that Ordinance should not apply to an action or to any specified cause of action to which the action relates shall be exercisable by the Court.”.

106. Jurisdiction of the Registrar and master

Order 32, rule 16 is amended—

- (a) in paragraph (1)(a), by adding “other than matters relating to the conditions of admission to bail” after “criminal proceedings”;
- (b) by repealing paragraph (4).

PART 13

INTERLOCUTORY APPLICATIONS AND SUMMARY ASSESSMENT OF COSTS

Recommendations 88, 89 and 92

107. Fractional or gross sums in place of taxed costs

Order 62, rule 9 is amended—

- (a) by repealing the heading and substituting “**Taxed costs, fractional taxed costs or costs summarily assessed for non-interlocutory applications**”;
- (b) by repealing paragraph (4)(b) and substituting—
“(b) to a sum of money summarily assessed in lieu of taxed costs.”;
- (c) by adding—
“(5) This rule does not apply to costs of an interlocutory application.”.

108. Rules substituted

Order 62, rule 9A is repealed and the following substituted—

“9A Summary assessment of costs of interlocutory application (O. 62, r. 9A)

(1) Where the Court has determined an interlocutory application at any stage of proceedings and orders a party to pay costs in respect of the interlocutory application to any other party, it may, if it considers it appropriate to do so but subject to rule 9C—

- (a) make a summary assessment of the costs by ordering payment of a sum of money to that other party in lieu of taxed costs;
 - (b) make a summary assessment of the costs by ordering payment of a sum of money to that other party in lieu of taxed costs but subject to the right of either party to have the costs taxed pursuant to paragraph (2); or
 - (c) order that the costs be taxed in accordance with this Order.
- (2) Where the Court has made an order under paragraph (1)(b), either party to the interlocutory application is entitled to have the costs in respect of the interlocutory application taxed in accordance with this Order.
- (3) Upon taxation pursuant to paragraph (2)—
 - (a) if the amount of the taxed costs in respect of the interlocutory application equals the amount paid pursuant to an order made under paragraph (1)(b), the taxing master shall direct that no further amount is payable in respect of the taxed costs;
 - (b) if the amount of the taxed costs in respect of the interlocutory application exceeds the amount paid pursuant to an order made under paragraph (1)(b), the taxing master may—
 - (i) direct the party against whom the order was made to pay the shortfall; or
 - (ii) set off the shortfall against any other costs to which the party against whom the order was made is entitled and direct payment of any balance; and
 - (c) if the amount paid pursuant to an order made under paragraph (1)(b) exceeds the amount of the taxed costs in respect of the interlocutory application, the taxing master may—
 - (i) direct the party in whose favour the order was made to pay the difference; or
 - (ii) set off the difference against any other costs to which the party in whose favour the order was made is entitled and direct payment of any balance.
- (4) Where—
 - (a) the amount paid pursuant to an order made under paragraph (1)(b) equals or exceeds the amount of the taxed costs in respect of the interlocutory application; or
 - (b) the taxed costs in respect of the interlocutory application do not materially exceed the amount paid pursuant to an order made under paragraph (1)(b),

the taxing master may make such order as to the costs of the taxation or such other order as he considers appropriate.

(5) In determining whether the taxed costs materially exceed the amount paid pursuant to an order made under paragraph (1)(b), the taxing master shall, in addition to any other matter that he may consider relevant, have regard to—

- (a) the amount by which the taxed costs exceed the amount paid pursuant to the order made under paragraph (1)(b); and
- (b) whether the exceeded amount is disproportionate to the costs of the taxation.

9B. Time for complying with direction or order for summary assessment

(O. 62, r. 9B)

(1) A party shall comply with a direction or order under rule 9(4)(b) or 9A(1)(a) or (b) for payment of a sum of money—

- (a) within 14 days of the date of the direction or order; or
 - (b) by such date as the Court may specify.
- (2) Paragraph (1) does not apply if the party is an aided person.

9C. When summary assessment not allowed

(O. 62, r. 9C)

(1) No direction or order may be made under rule 9(4)(b) or 9A(1)(a) or (b) for the payment of a sum of money if—

- (a) the paying party shows substantial grounds for disputing the sum claimed for costs that cannot be dealt with summarily;
- (b) the receiving party is an aided person, and the legal representative acting for the receiving party has not waived the right to any further sum of money in respect of the costs of the interlocutory application; or
- (c) the receiving party is a person under disability as defined in Order 80, rule 1, and the legal representative (or the next friend or guardian ad litem) acting for the person under disability has not waived the right to any further sum of money in respect of the costs of the interlocutory application.

(2) In this rule—

“paying party” (支付方) means the party against whom a direction or order under rule 9(4)(b) or 9A(1)(a) or (b) is made;

“receiving party” (收取方) means the party in whose favour a direction or order under rule 9(4)(b) or 9A(1)(a) or (b) is made.

9D. When to tax costs

(O. 62, r. 9D)

(1) Subject to paragraphs (2) and (4), the costs of any proceedings shall not be taxed until the conclusion of the action.

(2) If it appears to the Court when making a costs order that all or any part of the costs ought to be taxed at an earlier stage it may order accordingly.

(3) No order may be made under paragraph (2) in a case where the person against whom the costs order is made is an aided person.

(4) Where it appears to a taxing master that there is no likelihood of any further order being made in a cause or matter, he may order the person entitled to payment of the costs of any interlocutory proceedings which have taken place to commence taxation proceedings in accordance with rule 21.”.

109. Costs of a litigant in person

Order 62, rule 28A is amended—

(a) in paragraph (6), by adding “but includes a company or other corporation which is acting without a legal representative” after “practising solicitor”;

(b) by adding—

“(7) This rule applies, with the necessary modifications, to a summary assessment under rules 9(4)(b), 9A(1)(a) and (b) and 11A(4), as it applies to the taxation of the costs of a litigant in person, if the party entitled to the sum is a litigant in person.”.

PART 14

WASTED COSTS

Recommendations 94 to 97

110. Interpretation

Order 62, rule 1(1) is amended—

- (a) in the English text, in the definition of “taxing master”, by repealing the full stop and substituting a semicolon;
- (b) by adding—
 - ““legal representative” (法律代表), in relation to a party to proceedings, means a counsel or solicitor conducting litigation on behalf of the party;
 - “wasted costs order” (虛耗訟費命令) means an order made under section 53(3) of the Ordinance.”.

111. Rules substituted

Order 62, rule 8 is repealed and the following substituted—

“8. Personal liability of legal representative for costs—wasted costs order (O. 62, r. 8)

- (1) The Court may make a wasted costs order against a legal representative, only if—
 - (a) the legal representative, whether personally or through his employee or agent, has caused a party to incur wasted costs as defined in section 53(5) of the Ordinance; and
 - (b) it is just in all the circumstances to order the legal representative to compensate the party for the whole or part of those costs.
- (2) A wasted costs order may—
 - (a) disallow the costs as between the legal representative and his client; and
 - (b) direct the legal representative to—
 - (i) repay to his client costs which the client has been ordered to pay to other parties to the proceedings; or
 - (ii) indemnify other parties against costs incurred by them.
- (3) The Court shall give the legal representative a reasonable opportunity to attend a hearing to give reasons why it should not make the order.
- (4) When the Court makes a wasted costs order, it shall—
 - (a) specify the amount to be disallowed or paid; or
 - (b) direct a master to decide the amount of costs to be disallowed or paid.
- (5) The Court may give directions about the procedure that should be followed in each case in order to ensure that the issues are dealt with in a way that is fair and is as simple and summary as the circumstances permit.

(6) The Court may direct that notice must be given to the legal representative's client, in such manner as the Court may direct—

(a) of any proceedings under this rule; or

(b) of any order made under this rule against his legal representative.

(7) Before making a wasted costs order, the Court may direct a master to inquire into the matter and report to the Court.

(8) The Court may refer the question of wasted costs to a master, instead of making a wasted costs order.

(9) The Court may, if it thinks fit, direct or authorize the Official Solicitor to attend and take part in any proceedings or inquiry under this rule, and may make such order as it thinks fit as to the payment of his costs.

8A. Court may make wasted costs order on its own motion or on application

(O. 62, r. 8A)

(1) The Court may make a wasted costs order against a legal representative on its own motion.

(2) A party may apply for a wasted costs order—

(a) orally in the course of a hearing; or

(b) by making an interlocutory application by summons.

(3) Where a party applies for a wasted costs order by making an interlocutory application by summons, the party shall serve the summons on—

(a) the legal representative concerned;

(b) any party represented by that legal representative; and

(c) any other person as may be directed by the Court,

not less than 2 clear days before the day specified in the summons for its hearing.

(4) An application for a wasted costs order shall not be made or dealt with until the conclusion of the proceedings to which the order relates, unless the Court is satisfied that there is reasonable cause for the application to be made or dealt with before the conclusion of the proceedings.

(5) Unless there are exceptional circumstances making it inappropriate to do so, an application for a wasted costs order shall be heard by the judge or master who conducted the proceedings to which the order relates.

8B. Stages of considering whether to make a wasted costs order

(O. 62, r. 8B)

(1) The Court shall consider whether to make a wasted costs order in 2 stages—

- (a) in the first stage, the Court must be satisfied that—
 - (i) it has before it evidence or other material which, if unanswered, would be likely to lead to a wasted costs order being made; and
 - (ii) the wasted costs proceedings are justified notwithstanding the likely costs involved; and
- (b) in the second stage (even if the Court is satisfied under subparagraph (a)), the Court shall consider, after giving the legal representative an opportunity to give reasons why the Court should not make a wasted costs order, whether it is appropriate to make the order in accordance with rule 8.

(2) On an application for a wasted costs order, the Court may proceed to the second stage described in paragraph (1)(b) without first adjourning the hearing if it is satisfied that the legal representative has already had a reasonable opportunity to give reasons why the Court should not make a wasted costs order. In other cases the Court shall adjourn the hearing before proceeding to the second stage.

(3) On an application for a wasted costs order, any evidence in support must identify—

- (a) what the legal representative is alleged to have done or failed to do; and
- (b) the costs that he may be ordered to pay or which are sought against him.

8C. Application for wasted costs order not to be used as means of intimidation

(O. 62, r. 8C)

(1) A party shall not by himself or by another person on his behalf threaten another party or any of that party's legal representatives with an application for a wasted costs order with a view to coercing or intimidating either of them to do or refrain from doing anything.

(2) A party shall not indicate to another party or any of that party's legal representatives that he intends to apply for a wasted costs order unless he is satisfied that he is able to—

- (a) particularize the behaviour of the legal representative from which the wasted costs concerned are alleged to result; and

- (b) identify the evidence or other materials on which he relies in support of the allegation.

8D. Personal liability of legal representative for costs—supplementary provisions
(O. 62, r. 8D)

(1) Where in any proceedings before a taxing master, the legal representative representing any party is guilty of neglect or delay or puts any other party to any unnecessary expense in relation to those proceedings, the taxing master may direct the legal representative personally to pay costs to any of the parties to those proceedings.

(2) Where any legal representative fails to file a bill of costs (with the documents required by this Order) for taxation within the time fixed by or under this Order or otherwise delays or impedes the taxation, then, unless the taxing master otherwise directs, the legal representative shall not be allowed the fees to which he would otherwise be entitled for drawing the bill of costs and for attending the taxation.

(3) If, on the taxation of costs to be paid out of a fund other than funds provided by the Legislative Council pursuant to section 27 of the Legal Aid Ordinance (Cap. 91), one-sixth or more of the amount of the bill for those costs is taxed off, the legal representative whose bill it is shall not be allowed the fees to which he would otherwise be entitled for drawing the bill and for attending the taxation.

(4) In any proceedings in which the party by whom the fees prescribed by any enactment relating to court fees are payable is represented by a legal representative, if the fees or any part of the fees payable under that enactment are not paid as prescribed, the Court may, on the application of the Official Solicitor by summons, order the legal representative personally to—

- (a) pay that amount in the manner so prescribed; and
(b) pay the costs of the Official Solicitor of the application.

(5) A legal representative shall not be directed or ordered under this rule to pay any costs or fees, nor shall he be disallowed under this rule any fees, unless he has been given a reasonable opportunity to give reasons why—

- (a) the direction or order should not be made; or
(b) he should not be disallowed the fees.

(6) When a taxing master makes a direction under paragraph (1), he—

- (a) shall specify the amount to be paid; and

- (b) may give directions about the procedure that should be followed in each case in order to ensure that the issues are dealt with in a way that is fair and is as simple and summary as the circumstances permit.

(7) The Court or a taxing master may direct that notice must be given to the legal representative's client, in such manner as the Court or the taxing master may direct, of any direction or order made under this rule against his legal representative.

8E. Stages of considering whether to make direction under rule 8D(1)

(O. 62, r. 8E)

(1) The taxing master shall consider whether to make a direction under rule 8D(1) in 2 stages—

- (a) in the first stage, the taxing master must be satisfied that—
 - (i) he has before him evidence or other material which, if unanswered, would be likely to lead to a direction under rule 8D(1) being made; and
 - (ii) the direction is justified notwithstanding the likely costs involved; and
- (b) in the second stage (even if the taxing master is satisfied under subparagraph (a)), the taxing master shall consider, after giving the legal representative an opportunity to give reasons why the taxing master should not make the direction, whether it is appropriate to make the direction.

(2) On an application for a direction under rule 8D(1), the taxing master may proceed to the second stage described in paragraph (1)(b) without first adjourning the hearing if he is satisfied that the legal representative has already had a reasonable opportunity to give reasons why the taxing master should not make the direction. In other cases the taxing master shall adjourn the hearing before proceeding to the second stage.

(3) On an application for a direction under rule 8D(1), any evidence in support must identify—

- (a) what the legal representative is alleged to have done or failed to do; and
- (b) the costs that he may be directed to pay or which are sought against him.”.

112. Rule added

Order 62 is amended by adding immediately after rule 35—

“TRANSITIONAL

**36. Transitional provision relating to Part 14
of Amendment Rules 2008**
(O. 62, r. 36)

Rules 8, 8A, 8B, 8C, 8D and 8E do not apply in relation to any costs incurred before the commencement of the Amendment Rules 2008, and rule 8 as in force immediately before the commencement continues to apply in relation to those costs as if Part 14 had not been made.”.

PART 15

WITNESS STATEMENTS AND EVIDENCE

Recommendation 100**113. Exchange of witness statements**

Order 38, rule 2A is amended—

(a) by repealing paragraph (7)(b) and substituting—

“(b) the witness may with the leave of the Court—

(i) amplify his witness statement; and

(ii) give evidence in relation to new matters which have arisen since the witness statement was served on the other party;”;

(b) by adding—

“(7A) The Court may grant leave under paragraph (7)(b) only if it considers that there is good reason not to confine the evidence of the witness to the contents of his witness statement.”.

PART 16

EXPERT EVIDENCE

Recommendations 102, 103 and 107**114. Rule added**

Order 38 is amended by adding—

“4A. Evidence by single joint expert
(O. 38, r. 4A)

(1) In any action in which any question for an expert witness arises, the Court may, at or before the trial of the action, order 2 or more parties to the action to appoint a single joint expert witness to give evidence on that question.

(2) Where the parties cannot agree on who should be the joint expert witness, the Court may—

- (a) select the expert witness from a list prepared or identified by the parties; or
- (b) direct that the expert witness be selected in such manner as the Court may direct.

(3) Where an order is made under paragraph (1), the Court may give such directions as it thinks fit with respect to the terms and conditions of the appointment of the joint expert witness, including but not limited to the scope of instructions to be given to the expert witness and the payment of the expert witness’s fees and expenses.

(4) Notwithstanding that a party to the action disagrees with the appointment of a single joint expert witness to give evidence, the Court may, subject to paragraph (6), make an order under paragraph (1) if it is satisfied that it is in the interests of justice to do so after taking into account all the circumstances of the case.

(5) The circumstances that the Court may take into account include but are not limited to—

- (a) whether the issues requiring expert evidence can readily be identified in advance;
- (b) the nature of those issues and the likely degree of controversy attaching to the expert evidence in question;
- (c) the value of the claim and the importance of the issue on which expert evidence is sought, as compared with the cost of employing separate expert witnesses to give evidence;
- (d) whether any party has already incurred expenses for instructing an expert who may be asked to give evidence as an expert witness in the case; and
- (e) whether any significant difficulties are likely to arise in relation to—
 - (i) the choosing of the joint expert witness;
 - (ii) the drawing up of his instructions; or
 - (iii) the provision to him of the information and other facilities needed to perform his duties.

(6) Where a party to the action disagrees with the appointment of a single joint expert witness to give evidence, the Court shall not make an order under paragraph (1) unless the party has been given a reasonable opportunity to appear before the Court and to show cause why the order should not be made.

(7) Where the Court is satisfied that an order made under paragraph (1) is inappropriate, it may set aside the order and allow the parties concerned to appoint their own expert witnesses to give evidence.”.

115. Interpretation

Order 38, rule 35 is amended—

(a) by renumbering it as Order 38, rule 35(1);

(b) by adding—

“(2) A reference to an expert witness in this Part or Appendix E is a reference to an expert who has been instructed to give or prepare evidence for the purpose of proceedings in the Court.”.

116. Rule added

Order 38 is amended by adding—

“35A. Expert witness’s overriding duty to Court (O. 38, r. 35A)

(1) It is the duty of an expert witness to help the Court on the matters within his expertise.

(2) The duty under paragraph (1) overrides any obligation to the person from whom the expert witness has received instructions or by whom he is paid.”.

117. Rules added

Order 38 is amended by adding immediately after rule 37A—

“37B. Duty to provide expert witness with copy of code of conduct (O. 38, r. 37B)

(1) A party who instructs an expert witness shall as soon as practicable provide the expert witness with a copy of the code of conduct set out in Appendix E.

(2) Where the Court has under rule 4A(1) ordered that 2 or more parties shall appoint a single joint expert witness, paragraph (1) applies to each of the parties.

(3) If the instruction is in writing, it must be accompanied by a copy of the code of conduct set out in Appendix E.

37C. Expert witness's declaration of duty to Court (O. 38, r. 37C)

(1) An expert report disclosed under these Rules is not admissible in evidence unless the report contains a declaration by the expert witness that—

- (a) he has read the code of conduct set out in Appendix E and agrees to be bound by it;
- (b) he understands his duty to the Court; and
- (c) he has complied with and will continue to comply with that duty.

(2) Oral expert evidence is not admissible unless the expert witness has declared, whether orally or in writing or otherwise, that—

- (a) he has read the code of conduct set out in Appendix E and agrees to be bound by it;
- (b) he understands his duty to the Court; and
- (c) he has complied with and will continue to comply with that duty.

(3) Paragraph (1) does not apply to a report that was disclosed under rule 37 before the commencement of this rule.”.

118. Time for putting expert report in evidence

Order 38, rule 43 is amended by repealing “a report which has been disclosed in accordance with a direction given under rule 37” and substituting “an expert report which has been disclosed under these Rules”.

119. Appendix E added

The following is added after Appendix D—

“APPENDIX E

Code of conduct for expert witnesses (Order 38 rules 35, 37B and 37C)

Application of code

1. This code of conduct applies to an expert who has been instructed to give or prepare evidence for the purpose of proceedings in the Court.

General duty to Court

2. An expert witness has an overriding duty to help the Court impartially and independently on matters relevant to the expert's area of expertise.

3. An expert witness's paramount duty is to the Court and not to the person from whom the expert has received instructions or by whom he is paid.

4. An expert witness is not an advocate for a party.

Declaration of duty to Court

5. A report by an expert witness is not admissible in evidence unless the report contains a declaration by the expert witness that—

- (a) he has read this code of conduct and agrees to be bound by it;
- (b) he understands his duty to the Court; and
- (c) he has complied with and will continue to comply with that duty.

6. Oral expert evidence is not admissible unless an expert witness has declared in writing, whether in a report or otherwise in relation to the proceedings, that—

- (a) he has read this code of conduct and agrees to be bound by it;
- (b) he understands his duty to the Court; and
- (c) he has complied with and will continue to comply with that duty.

Expert report to be verified

7. A report by an expert witness must be verified by a statement of truth in accordance with Order 41A of the Rules of the District Court (Cap. 336 sub. leg. H).

Form of expert reports

8. A report by an expert witness must (in the body of the report or in an annexure) specify—

- (a) the person's qualifications as an expert;
- (b) the facts, matters and assumptions on which the opinions in the report are based (a letter of instructions may be annexed);
- (c) the reasons for each opinion expressed;
- (d) if applicable, that a particular question or issue falls outside his field of expertise;
- (e) any literature or other materials utilized in support of the opinions; and
- (f) any examinations, tests or other investigations on which he has relied, and the identity and details of the qualifications of the person who carried them out.

9. If an expert witness who prepares a report believes that it may be incomplete or inaccurate without some qualification, that qualification must be stated in the report.

10. If an expert witness considers that his opinion is not a concluded opinion because of insufficient research or insufficient data or for any other reason, this must be stated when the opinion is expressed.

11. An expert witness who, after communicating an opinion to the party instructing him (or that party's legal representative), changes his opinion on a material matter shall forthwith provide the party (or that party's legal representative) with a supplementary report to that effect which must contain such of the information referred to in section 8(b), (c), (d), (e) and (f) as is appropriate.

Experts' conference

12. An expert witness shall abide by any direction of the Court to—

- (a) confer with any other expert witness;
- (b) endeavour to reach agreement on material matters for expert opinion; and
- (c) provide the Court with a joint report specifying matters agreed and matters not agreed and the reasons for any non-agreement.

13. An expert witness shall exercise his independent, professional judgment in relation to such a conference and joint report, and shall not act on any instruction or request to withhold or avoid agreement.

Note:—Proceedings for contempt of court may be brought against a person if he makes, or causes to be made, a false declaration or a false statement in a document verified by a statement of truth without an honest belief in its truth.”.

PART 17

CASE MANAGING TRIALS

Recommendation 108

120. Rule added

Order 35 is amended by adding—

“3A. Time, etc. limits at trial

(O. 35, r. 3A)

(1) At any time before or during a trial, the Court may by direction—

- (a) limit the time to be taken in examining, cross-examining or re-examining a witness;
- (b) limit the number of witnesses (including expert witnesses) that a party may call on a particular issue;
- (c) limit the time to be taken in making any oral submission;
- (d) limit the time to be taken by a party in presenting its case;
- (e) limit the time to be taken by the trial; and
- (f) vary a direction made under this rule.

(2) In deciding whether to make any such direction, the Court shall have regard to the following matters in addition to any other matters that may be relevant—

- (a) the time limited for a trial must be reasonable;
- (b) any such direction must not detract from the principle that each party is entitled to a fair trial;
- (c) any such direction must not detract from the principle that each party must be given a reasonable opportunity to lead evidence and cross-examine witnesses;
- (d) the complexity or simplicity of the case;
- (e) the number of witnesses to be called by the parties;
- (f) the volume and character of the evidence to be led;
- (g) the state of the Court lists;
- (h) the time expected to be taken for the trial; and
- (i) the importance of the issues and the case as a whole.”.

PART 18

LEAVE TO APPEAL

Recommendation 109**121. Appeals from master to judge in chambers**

Order 58, rule 1 is amended—

- (a) in paragraph (1), by repealing “determination of a master” and substituting “decision of a master, irrespective of whether the judgment, order or decision was given or made on the basis of written submissions only or after hearing”;
- (b) in paragraphs (2) and (3), by repealing “determination” and substituting “decision”;
- (c) by adding—
 - “(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.”.

PART 19

APPEALS

122. Appeals to Court of Appeal

Order 58, rule 2 is amended—

- (a) in paragraph (1), by repealing “determination” and substituting “decision”;
- (b) by repealing paragraph (2) and substituting—
 - “(2) Subject to the provisions of this rule, an appeal lies to the Court of Appeal from—
 - (a) a judgment, order or decision of a master on 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.”;

(c) by repealing paragraph (3);

(d) by repealing paragraph (4) and substituting—

“(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 an 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 an 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.”;

(e) in paragraph (5), by repealing “determination” and substituting “decision”;

(f) by repealing paragraph (7);

(g) in paragraph (8), by adding “or (4A)” after “paragraph (4)”;

(h) in paragraph (9)—

(i) by adding “or an order for imprisonment given or made under Order 49B” after “the Ordinance”;

- (ii) by repealing “14 days from the date on which the order of the Court was sealed or otherwise perfected” and substituting “28 days from the date of the order of the Court”.

123. Rule added

Order 58 is amended by adding—

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

(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; and
- (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 the construction of any document under Order 14A, rule 1(1);
- (d) a judgment or order 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.”.

PART 20

GENERAL APPROACH TO INTER-PARTY COSTS

Recommendation 122

124. When costs to follow the event

Order 62, rule 3 is amended—

- (a) by repealing the heading and substituting “**Order as to entitlement to costs**”;
- (b) in paragraph (2), by adding “(other than interlocutory proceedings)” after “proceedings”;
- (c) by adding—
 - “(2A) If the Court in the exercise of its discretion sees fit to make any order as to the costs of or incidental to any interlocutory proceedings, it may, subject to this Order, order the costs to follow the event or make such other order as it sees fit.”.

125. Special matters to be taken into account in exercising discretion

Order 62, rule 5 is amended—

- (a) by renumbering it as Order 62, rule 5(1);
- (b) in paragraph (1)—
 - (i) by adding before subparagraph (a)—
 - “(aa) the underlying objectives set out in Order 1A, rule 1;”;
 - (ii) in subparagraph (c), by repealing “and”;

- (iii) by adding—
 - “(e) the conduct of all the parties;
 - (f) whether a party has succeeded on part of his case, even if he has not been wholly successful; and
 - (g) any admissible offer to settle made by a party, which is drawn to the Court’s attention.”;
- (c) by adding—
 - “(2) For the purpose of paragraph (1)(e), the conduct of the parties includes—
 - (a) whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue;
 - (b) the manner in which a party has pursued or defended his case or a particular allegation or issue;
 - (c) whether a claimant who has succeeded in his claim, in whole or in part, exaggerated his claim; and
 - (d) conduct before, as well as during, the proceedings.”.

126. Costs arising from misconduct or neglect

Order 62, rule 7(2) is amended by adding before subparagraph (a)—
“(aa) the underlying objectives set out in Order 1A, rule 1;”.

PART 21

TAXING THE OTHER SIDE’S COSTS

Division 1—Recommendation 131

127. Schedule 1 amended

Schedule 1 to Order 62 is amended, in Part II, by repealing paragraph 2(5) and substituting—

“(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).”.

Division 2—Recommendation 134

128. Interpretation

Order 62, rule 1(1) is amended by adding—

“ “party entitled to be heard on taxation” (有權在訟費評定中獲聆聽的一方) means—

- (a) a party entitled to payment of costs;
- (b) a party who has acknowledged service or taken any part in the proceedings which gave rise to the taxation proceedings, and who is directly liable under a costs order made against him;
- (c) a person who has given the party entitled to payment of costs and the Registrar written notice that he has a financial interest in the outcome of the taxation; or
- (d) a person in respect of whom a direction has been given under rule 21(3);”.

129. Powers of Chief Judicial Clerks to tax costs

Order 62, rule 13 is amended—

- (a) in paragraph (1)—
 - (i) by repealing “rule 21(4)” and substituting “rule 21B”;
 - (ii) by repealing “Registrar” and substituting “taxing master”;
- (b) by adding—
 - “(1A) Paragraph (1) only applies if the amount of the bill of costs does not exceed the sum of \$200,000.”;
- (c) in paragraph (2), by repealing “in respect of which an appointment to tax has been given” and substituting “the taxation of which is set down for hearing under rule 21B(4) or 21C(1)”.

130. Rules substituted

Order 62, rule 21 is repealed and the following substituted—

“21. Mode of commencing proceedings for taxation (O. 62, r. 21)

(1) A party entitled to payment of the costs of any action to be taxed may commence proceedings for the taxation of those costs by filing in the Court—

- (a) a notice of commencement of taxation; and
- (b) his bill of costs.

(2) The party shall serve a copy of the notice of commencement of taxation and of the bill of costs on every other party entitled to be heard on taxation within 7 days after the notice and the bill of costs were filed in the Court.

(3) The Court may give directions as to the service of a copy of the notice of commencement of taxation and of the bill of costs on any other person who may have a financial interest in the outcome of the taxation.

(4) Subject to paragraphs (2) and (3), it is not necessary for a copy of the notice of commencement of taxation or of the bill of costs to be served on any party who has not acknowledged service in the proceedings which gave rise to the taxation.

(5) A party shall, when he files a notice of commencement of taxation, pay to the Court a prescribed taxing fee.

(6) A person who has been served with a copy of the notice of commencement of taxation and of the bill of costs pursuant to paragraph (3) shall, within 7 days of the service, give notice in writing to the taxing master and all other parties entitled to be heard on taxation, stating—

- (a) his financial interest in the outcome of the taxation; and
- (b) whether he intends to take part in the taxation proceedings.

(7) A person who fails to comply with paragraph (6) is not entitled to—

- (a) receive from the Registrar or from any other party entitled to be heard on taxation any notice, application or other document relating to the taxation; and
- (b) take part in the taxation proceedings.

21A. Application for taxation to be set down (O. 62, r. 21A)

(1) Upon compliance with the directions given by a taxing master under rule 13A relating to the steps to be taken or things to be done before the taxation is set down, the party who has commenced taxation proceedings under rule 21 may apply to the taxing master for setting down the taxation.

(2) The party shall, within 7 days after making an application under paragraph (1), serve a copy of the application on every other party entitled to be heard on taxation.

(3) A taxing master may refuse to proceed with taxation if he is of the opinion that any direction referred to in paragraph (1) has not been complied with.

21B. Provisional taxation (O. 62, r. 21B)

(1) Unless the taxation is set down for hearing under rule 21C(1), the taxing master may—

(a) tax the bill of costs without a hearing; and

(b) make an order nisi as to—

(i) the amount which he allows in respect of the whole or part of the bill of costs; and

(ii) the costs of the taxation.

(2) Where the taxing master has taxed the bill of costs without a hearing and made an order nisi under paragraph (1), the party who has applied for setting down the taxation under rule 21A(1) shall serve a copy of the order nisi on every other party entitled to be heard on taxation.

(3) The order nisi becomes absolute 14 days after it is made unless a party entitled to be heard on taxation applies to the taxing master within the 14-day period for a hearing.

(4) The taxing master shall set down the taxation for hearing upon application made by a party under paragraph (3) and that party shall serve a notice of the hearing on every other party entitled to be heard on taxation.

(5) The taxing master may order that party to pay any costs of the hearing if the taxed costs do not materially exceed the amount allowed under paragraph (1)(b)(i).

(6) In determining whether the taxed costs materially exceed the amount allowed under paragraph (1)(b)(i), the taxing master shall, in addition to any other matter that he may consider relevant, have regard to—

(a) the amount by which the costs taxed at the hearing exceed the amount allowed under paragraph (1)(b)(i); and

(b) whether the exceeded amount is disproportionate to the costs of the hearing.

21C. Taxation with a hearing (O. 62, r. 21C)

(1) Where the taxing master is satisfied that there is a good reason to do so, he may, either of his own motion or on application by a party entitled to be heard on taxation, set down for hearing the taxation of the whole or part of the bill of costs.

(2) Upon notification by the taxing master of the date of hearing, the party who applied for setting down shall serve a notice of the hearing on every other party entitled to be heard on taxation within 7 days after the notification.

21D. Withdrawal of bill of costs

(O. 62, r. 21D)

(1) A party who has filed a bill of costs shall pay the prescribed fee to the Court if he withdraws the bill of costs within 7 days after his application to the taxing master for setting down the taxation under rule 21A(1) is made.

(2) The Court shall deduct the fee payable under paragraph (1) from the amount paid under rule 21(5) and refund the balance to the party.

(3) The party is not entitled to any refund of the balance of the amount paid under rule 21(5) except—

- (a) under paragraph (2); or
- (b) where the Court otherwise directs.”.

131. Rule substituted

Order 62, rule 24 is repealed and the following substituted—

“24. Taxation (O. 62, r. 24)

(1) The taxing master may proceed to taxation of a bill of costs under rule 21B(1) notwithstanding that a party entitled to be heard on taxation has failed to comply with any direction given by him relating to the steps to be taken or things to be done before the taxation proceeds under rule 21B, if the taxing master is satisfied that a copy of the notice of commencement of taxation and of the bill of costs were duly served in accordance with rule 21(2) on the party.

(2) If, at the date and time of a hearing under rule 21B(4) or 21C(2), a party entitled to be heard on taxation does not appear before the taxing master in person or by his representative, the taxing master may proceed to taxation of the bill of costs in the absence of the party or of his representative, if the taxing master is satisfied that the party has been

served with a notice of the hearing in accordance with rule 21B(4) or 21C(2), or has been otherwise informed of the hearing.

(3) If the taxing master is not so satisfied, he—

- (a) must adjourn the hearing for such period as he may consider necessary to enable service of the notice of the adjourned hearing or of the bill of costs or both to be effected on the party; and
- (b) may make such order as he may consider appropriate in relation to costs thrown away by the adjournment.”.

Division 3—Recommendations 135 and 136

132. Rule added

Order 62 is amended by adding—

“13A. Taxing master may give directions

(O. 62, r. 13A)

- (1) A taxing master may give directions—
 - (a) for the just and expeditious disposal of the taxation of a bill of costs; and
 - (b) for saving the costs of taxation.
- (2) Without limiting the generality of paragraph (1), a taxing master may give directions as to—
 - (a) the form and contents of a bill of costs;
 - (b) the filing of papers and vouchers;
 - (c) the manner in which—
 - (i) any objections to a bill of costs may be raised; and
 - (ii) any reply to those objections may be made; and
 - (d) the steps to be taken or things to be done at any stage of the taxation proceedings.”.

133. Deposit of papers and vouchers

Order 62, rule 23 is repealed.

134. Provisions as to bills of costs

Order 62, rule 25 is repealed.

135. Power to adjourn

Order 62, rule 26(2) is amended—

- (a) by renumbering it as Order 62, rule 26(1);
- (b) by adding—

“(2) If the taxation proceedings are adjourned because a party has failed to comply with any directions given under rule 13A, the taxing master may make such order as he may consider appropriate in relation to costs thrown away by the adjournment.”.

136. Costs for witnesses

Order 62 is amended—

- (a) by renumbering rule 32A as rule 32D;
- (b) in rule 32D, in the heading, by repealing “r. 32A)” and substituting “r. 32D)”.

137. Rule added

Order 62 is amended by adding immediately after rule 32—

“32A. Liability for costs of taxation

(O. 62, r. 32A)

(1) A party entitled to payment of any costs to be taxed is also entitled to his costs of the taxation except where—

- (a) any Ordinance, any of these Rules or any relevant practice direction provides otherwise; or
- (b) the Court makes some other order in relation to all or part of the costs of the taxation.

(2) In deciding whether to make some other order, the Court shall have regard to the underlying objectives set out in Order 1A, rule 1 and all the circumstances, including—

- (a) the conduct of all the parties in relation to the taxation;
- (b) the amount, if any, by which the bill of costs has been reduced; and
- (c) whether it was reasonable for a party to claim the costs of a particular item or to dispute that item.”.

138. Rule added

Order 62 is amended by adding—

“32C. Court’s powers in relation to misconduct (O. 62, r. 32C)

- (1) The Court may make an order under this rule where—
 - (a) a party or his legal representative, in connection with a summary assessment or taxation of costs, fails to comply with a rule, practice direction or an order of the Court; or
 - (b) it appears to the Court that the conduct of a party or his legal representative, before or during the proceedings which gave rise to the summary assessment or taxation, was unreasonable or improper.
- (2) For the purpose of paragraph (1), the conduct of a party or his legal representative does not include any conduct before the commencement of the action.
- (3) Where paragraph (1) applies, the Court may—
 - (a) by order disallow all or part of the costs being summarily assessed or taxed; or
 - (b) order the party at fault or his legal representative, to pay costs that he has caused any other party to incur.
- (4) Where—
 - (a) the Court makes an order under paragraph (3) against a legally represented party; and
 - (b) the party is not present when the order is made,the party’s solicitor shall notify his client in writing of the order not later than 7 days after the solicitor receives notice of the order and shall inform the Court in writing that he has done so.
- (5) In this rule, “client” (當事人) includes a person on whose behalf the solicitor acts and any other person who has instructed the solicitor to act or who is liable to pay the solicitor’s costs.”.

Division 4—Miscellaneous

139. Costs arising from misconduct or neglect

Order 62, rule 7 is amended—

- (a) in paragraph (4), by repealing “and in relation to any failure to procure taxation”;
- (b) by repealing paragraph (5).

140. Rules added

Order 62 is amended by adding—

“17A. Final certificate (O. 62, r. 17A)

(1) A taxing master shall, after the conclusion of taxation proceedings before him, issue a final certificate specifying the amount of taxed costs and the amount of money payable under rule 32B.

(2) A taxing master shall not issue a final certificate unless the period within which an application for review of his decision may be made under rule 33(2) has expired.

(3) A taxing master may set aside a final certificate for good reasons and on such terms as he thinks fit.

17B. Taxing master may set aside his own decision (O. 62, r. 17B)

If a party entitled to be heard on taxation fails to raise any objection to a bill of costs or to appear at a hearing set down under rule 21B(4) or 21C(1), a decision of a taxing master made against that party may be set aside or varied by the taxing master for good reasons and on such terms as he thinks fit.”.

141. Rule substituted

Order 62, rule 22 is repealed and the following substituted—

“22. Delay in service of notice of commencement of taxation or in proceeding with taxation (O. 62, r. 22)

(1) If, within 3 months after the completion date, the person entitled to payment of costs has neither—

(a) agreed the amount of those costs with the person liable to pay them; nor

(b) served upon such person a copy of a notice of commencement of taxation in accordance with rule 21(2), the taxing master, on the application of the person liable to pay such costs and on not less than 7 days' notice to the person entitled to payment of those costs, may make an order under paragraph (3).

(2) If, after the proceedings for the taxation of a bill of costs have commenced in accordance with rule 21(1), the person entitled to payment of costs has neither—

(a) agreed the amount of those costs with the person liable to pay them; nor
(b) proceeded with the taxation,
the taxing master, on the application of the person liable to pay such costs and on not less than 7 days' notice to the person entitled to payment of those costs, may make an order under paragraph (3).

(3) The taxing master—

- (a) may order that the person entitled to payment of the costs must commence taxation proceedings in accordance with rule 21 or proceed with the taxation, within such period as may be specified in the order; and
(b) may further order that that person shall not be entitled to commence those taxation proceedings or proceed with the taxation unless the person does commence those taxation proceedings or proceed with the taxation within the specified period or such extended period as may be allowed by the taxing master.

(4) The taxing master may make an order under paragraph (3) subject to such conditions as he thinks fit, including a condition that the person liable to pay the costs to be taxed shall pay a sum of money into court.

(5) On the taxation of a bill of costs, whether or not an order has been made under paragraph (3), the taxing master, if he is satisfied that there has been undue delay in commencing taxation proceedings or in proceeding with the taxation—

- (a) may make such order as he thinks fit as to the costs of any application or as to the costs of the taxation;
(b) may disallow any part of the costs to be taxed pursuant to the costs order; and
(c) may, in relation to the taxed costs or any part of those costs, disallow interest or reduce the period for which interest is payable or the rate at which interest is payable.

(6) Where a party entitled to payment of costs fails to proceed with taxation after filing the notice of commencement of taxation under rule 21(1), the taxing master in order to prevent any other parties being prejudiced by that failure, may—

- (a) allow the party so entitled a nominal or other sum for costs;
or
(b) certify the failure and the costs of the other parties.

(7) A party is not entitled to commence taxation proceedings under rule 21—

- (a) after the expiry of 2 years from the completion date; or

(b) where the Court has extended the period specified in subparagraph (a), after the expiry of the period as extended, whichever is the later.

(8) Where the completion date is before the commencement of this rule, paragraph (7)(a) has effect as if for the words “completion date”, there were substituted the words “commencement of this rule”.

(9) In this rule, “completion date” (完結日期) means—

- (a) the date of the judgment or order of the Court which disposes of the action;
- (b) the date on which the Court makes the costs order, or if the order is an order nisi, the date on which the order is made absolute or varied (as the case may be);
- (c) the date on which the taxing master orders under rule 9D(4) the person entitled to payment of the costs of any interlocutory proceedings in the Court to commence taxation proceedings; or
- (d) where the person entitled to payment of costs is entitled to tax those costs without an order of the Court directing the taxation of them, the date on which he becomes entitled to tax those costs,

whichever is the later.”.

142. Cross-heading substituted

The cross-heading immediately before Order 62, rule 28 is repealed and the following substituted—

“BASES AND SCALES FOR TAXATION AND ASSESSMENT OF COSTS”.

143. Costs of a litigant in person

Order 62, rule 28A(5) is amended by adding “, unless otherwise specified therein,” after “shall”.

144. Rule added

Order 62 is amended by adding—

“32B. Reimbursement for taxing fees

(O. 62, r. 32B)

Upon the issue of a final certificate under rule 17A, the party liable to pay costs shall pay to the party entitled to payment of the costs an amount of money equivalent to the prescribed taxing fee calculated on the basis of the amount of costs allowed.”.

145. Application to taxing master for review

Order 62, rule 33 is amended—

- (a) in paragraph (1), by repealing everything after “allowed by a taxing master” and substituting—
 “in respect of any item—
 (a) may apply to the taxing master to review his decision in respect of that item; and
 (b) may not apply to a judge for an order to review the decision until after its review by the taxing master.”;
- (b) in paragraph (2)—
 (i) by repealing “14 days after that decision” and substituting “14 days after the conclusion of the taxation in which that decision was made”;
 (ii) in the proviso, by repealing “certificate dealing finally” and substituting “final certificate dealing”;
- (c) by adding—
 “(3A) If an applicant fails to comply with paragraph (3), the taxing master may dismiss the application.”.

146. Schedule 1 amended

Schedule 1 to Order 62 is amended, in Part I—

- (a) by repealing item 1 and substituting—
- | | |
|--|--|
| “1. Preparation of a bundle of copies of documents, including the costs of copying and collating the documents and compiling (including indexing and pagination) the bundle, per page of whatever size | \$4 per page
in respect of
the first bundle,
and \$1 per page
in respect of
each subsequent
bundle |
| 1A. Copying of documents, per page of whatever size | \$1”; |
- (b) in item 2, by repealing “\$65” and substituting “\$72”.

147. Fixed costs

Schedule 2 to Order 62 is repealed and the following substituted—

“SCHEDULE 2

[rr. 28A, 32 & 37]

PART I

COSTS ON JUDGMENT WITHOUT TRIAL FOR
LIQUIDATED SUM OR UNDER ORDER 13A

1. The scale of costs set out in Part II of this Schedule applies in relation to the following cases if the writ of summons therein was issued after the commencement of the Amendment Rules 2008 and was indorsed with a claim for a debt or liquidated demand only, that is to say—
 - (a) cases in which the defendant pays the amount claimed within the time and in the manner required by the indorsement of the writ;
 - (b) cases in which the plaintiff obtains—
 - (i) judgment on failure to give notice of intention to defend under Order 13, rule 1; or
 - (ii) judgment in default of defence under Order 19, rule 2.
2. The scale of costs set out in Part II of this Schedule applies in relation to cases in which the plaintiff obtains judgment under Order 13A without a hearing.
3. Notwithstanding anything in paragraph 1 or 2 of this Schedule or in the scale of costs set out in Part II of this Schedule, no costs shall be allowed in any case to which paragraph 1 or 2 of this Schedule applies unless—
 - (a) the Court orders costs to be allowed; or
 - (b) in a case to which subparagraph (b) of paragraph 1 of this Schedule applies, judgment or an order for judgment, as the case may be, is obtained—
 - (i) within 28 days after the service of the writ; or
 - (ii) within such further time as the Court may allow.
4. In a case to which the scale of costs set out in Part II of this Schedule applies, there shall be added to the basic costs set out in the scale the fee which would have been payable on the issue of a writ for the amount recovered.

PART II

SCALE OF COSTS

Item	Scale
	\$
Basic Costs	
To be allowed in cases under—	
subparagraph (a) of paragraph 1	6,000 if the plaintiff is legally represented and 350 if the plaintiff is not legally represented
subparagraph (b) of paragraph 1	6,500 if the plaintiff is legally represented and 300 if the plaintiff is not legally represented
paragraph 2`	6,500 if the plaintiff is legally represented and 300 if the plaintiff is not legally represented
Additional Costs	
1. For each additional defendant after the first	350
2. Where substituted service is ordered and effected, for each defendant served	650

PART III

MISCELLANEOUS

Item	Scale
	\$
1. Where a plaintiff or defendant signs judgment for costs under rule 10, there shall be allowed cost of the judgment	700

Item	Scale
	\$
2. 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 by or accruing from him to the debtor, the following costs shall be allowed to the garnishee, to be deducted by him from any debt owing by or accruing from him to the debtor before payments to the applicant—	
(a) if no affidavit used	70
(b) if affidavit used	200
3. Where a writ of execution within the meaning of Order 46, rule 1 is issued against any party, there shall be allowed cost of issuing execution	400”.

Division 5—Transitional arrangement

148. Rule added

Order 62 is amended by adding—

“37. Transitional provisions relating to Part 21 of Amendment Rules 2008 (O. 62, r. 37)

(1) Where a party entitled to require any costs to be taxed has filed his bill of costs before the commencement of the Amendment Rules 2008, nothing in Part 21 of the Amendment Rules 2008 applies in relation to the taxation, and Order 62 as in force immediately before the commencement applies in relation to the taxation as if it had not been amended by that Part.

(2) Where—

(a) a party entitled to require any costs to be taxed files his bill of costs after the commencement of the Amendment Rules 2008; but

(b) any item of work to which the costs or charges specified in Schedule 1 or Part III of Schedule 2 of this Order relate was undertaken before the commencement,

then Schedule 1 or Part III of Schedule 2 of this Order as in force immediately before the commencement applies in relation to that item of work as if it had not been amended by Part 21 of the Amendment Rules 2008.

(3) Where—

(a) a party entitled to require any costs to be taxed files his bill of costs after the commencement of the Amendment Rules 2008; but

(b) the writ of summons was issued before the commencement, then Part I and Part II of Schedule 2 of this Order as in force immediately before the commencement applies in relation to the writ of summons issued before the commencement as if they had not been amended by Part 21 of the Amendment Rules 2008.

(4) No costs for work undertaken before the commencement of the Amendment Rules 2008 are to be disallowed if those costs would have been allowed under this Order as in force immediately before the commencement.”.

PART 22

COSTS AGAINST NON-PARTY

149. Principal cases in which service of writ out of jurisdiction is permissible

Order 11, rule 1(1) is amended by adding—

“(oa) the claim is for a costs order under section 53(2) of the Ordinance against a person who is not a party to the relevant proceedings;”.

150. Rule added

Order 62 is amended by adding—

“6A. Costs orders in favour of or against non-parties (O. 62, r. 6A)

(1) Where the Court is considering whether to exercise its power under section 53 or 53A of the Ordinance to make a costs order in favour of or against a person who is not a party to the relevant proceedings—

- (a) that person must be joined as a party to the proceedings for the purposes of costs only; and
- (b) that person must be given a reasonable opportunity to attend a hearing at which the Court shall consider the matter further.

(2) This rule does not apply where the Court is considering whether to make—

- (a) a wasted costs order; or
- (b) an order under section 47A or 47B of the Ordinance.”.

PART 23

REPLACEMENT OF ORDER 34

151. Order substituted

Order 34 is repealed and the following substituted—

“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 are to be construed as references to an action so begun.

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

(1) Unless the Court has fixed a trial date or a period in which the trial is to take place under Order 25, rule 2(2)(b) or (3)(b), an order made in an action which provides for trial before a judge must 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 any list which may be specified for the purposes of this paragraph by directions under rule 4) must—

- (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)(a);
 - (ii) pursuant to a case management summons; and
 - (iii) at a case management conference;
- (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 must 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 prejudices 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 shall, 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 plaintiff 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 shall, 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 must 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.”.

152. Order for hearing or trial

Order 28, rule 9(4) is amended by repealing “rules 1 to 8” and substituting “rules 1 to 5”.

153. Abatement, etc., of action

Order 28, rule 11 is amended by repealing “rule 9” and substituting “rule 6”.

PART 24

MISCELLANEOUS

154. Application

Order 1, rule 2 is amended—

(a) in paragraph (2), in the Table—

(i) by repealing—

“3. Proceedings in respect of domestic violence.	Domestic Violence Ordinance (Cap. 189), section 8.”;
--	--

(ii) by repealing—

“5. Proceedings under the Business Registration Ordinance (Cap. 310).	Business Registration Ordinance (Cap. 310), section 17.”;
---	---

(b) in paragraph (2A)—

(i) by repealing “These Rules” and substituting “Subject to paragraph (2B), these Rules”;

(ii) in subparagraph (b), by repealing “determination” and substituting “decision”;

(iii) by adding—

“(ba) domestic violence proceedings (except for an appeal against any judgment, order or decision of a judge to which Order 58 applies);”;

(c) by adding—

“(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.”.

155. Definitions

Order 1, rule 4(1) is amended—

(a) in the definition of “written law”, by repealing “(成文法)” and substituting “(成文法律)”;

(b) by adding—

““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;”.

156. Rule added

Order 1 is amended by adding—

“6A. Construction of references to Registrar

(O. 1, r. 6A)

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

157. Transfer to the Court of First Instance

Order 4, rule 1 is amended—

(a) in the heading, by adding “or the Lands Tribunal” after “Instance”;

(b) by adding “or the Lands Tribunal” after “Instance”.

158. Service of originating summons

Order 10, rule 5 is amended—

- (a) in the heading, by adding “, **notice of motion, or petition**” after “**summons**”;
- (b) by renumbering it as Order 10, rule 5(1);
- (c) by adding—
 - “(2) Rule 1(1), (2), (3) and (4) applies, with any necessary modifications, in relation to a notice of an originating motion and a petition as they apply in relation to a writ.”.

159. Mode of acknowledging service

Order 12, rule 1(4) is amended, in the English text, by repealing “1 or more” and substituting “2 or more”.

160. Mixed claims

Order 13, rule 5 is amended, in the English text, by repealing “1 or more” and substituting “2 or more”.

161. Rules added

Order 24 is amended by adding—

“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.”

162. Order for discovery

Order 24, rule 3 is amended—

(a) in paragraph (1)—

- (i) by repealing “Subject to paragraph (3) and” and substituting “Subject to the provisions of this rule and of”;
- (ii) by adding “or otherwise” after “originating summons”;

(b) by adding—

“(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.”.

163. Order for determination of issue, etc., before discovery

Order 24, rule 4(1) is amended by repealing “rule 3” and substituting “rule 2 or 3”.

164. Form of list and affidavit

Order 24, rule 5 is amended—

- (a) in paragraph (1), by adding “made in compliance with rule 2 or with an order under rule 3” after “A list of documents”;
- (b) in paragraph (2), by repealing “claimed” and substituting “desired to claim”.

165. Inspection of documents referred to in list

Order 24, rule 9 is amended by adding “, whether in compliance with rule 2 or with an order under rule 3,” after “on any other party”.

166. Failure to comply with requirement for discovery, etc.

Order 24, rule 16(1) is amended—

- (a) by repealing “any order or direction” and substituting “any of the foregoing rules, or by any order made thereunder,”;
- (b) by repealing “that order or direction” and substituting “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)”.

167. Rule added

Order 24 is amended by adding—

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

(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 78 of the Amendment Rules 2008 which sets out the directions and orders agreed between the parties and taking effect under the repealed rule.”.

168. Discovery by interrogatories

Order 26, rule 1(2A) is amended by repealing “or to give” and substituting “to give”.

169. Order for hearing or trial

Order 28, rule 9 is amended by adding—

“(3) The Court shall by order determine the place and mode of the trial, but any such order may be varied by a subsequent order of the Court made at or before the trial.”.

170. Order for interim payment in respect of damages

Order 29, rule 11 is amended—

- (a) by repealing paragraph (2)(a), (b) and (c) 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);
 - (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) a public authority; or
- (c) a person whose means and resources are such as to enable him to make the interim payment.”;
- (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.”.

171. Certificate of judicial clerk

Order 35, rule 10(b) is amended by adding “or 6” after “rule 5”.

172. Report on reference

Order 36, rule 9(3)(d) is amended by adding “or any other master” after “by him”.

173. Assessment of damages

Order 37, rule 1 is amended—

- (a) in paragraph (1) by repealing “, or, if the parties consent, by a master” and substituting “or master as directed by the Court”;
- (b) by repealing paragraph (1A) and substituting—

“(1A) Upon judgment being given for damages to be assessed, the following directions shall, unless the Court directs otherwise, 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 in accordance with Order 24, rule 9;
- (b) each party shall serve on the other parties, within 6 weeks, written statements under Order 38, rule 2A of the oral evidence which the party intends to lead on any issues of fact to be decided at the trial;
- (c) photographs, plans and the contents of any police investigation report shall be receivable in evidence at the hearing and shall be agreed if possible;
- (d) 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;
- (e) 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.”.

174. Certificate of amount of damages

Order 37, rule 2 is amended by repealing “, the judge or master hearing the assessment” and substituting “by a master, he”.

175. Offer to submit to an award

Order 37, rule 9(3) is amended by repealing “21 days after receipt of the offer” and substituting “28 days after the offer was made”.

176. Exchange of witness statements

Order 38, rule 2A is amended—

- (a) by adding—

“(1) The powers of the Court under this rule shall be exercised for the purpose of disposing fairly and expeditiously of the cause or matter before it, and saving costs, having regard to all the circumstances of the case, including (but not limited to)—

- (a) the extent to which the facts are in dispute or have been admitted;
- (b) the extent to which the issues of fact are defined by the pleadings;
- (c) the extent to which information has been or is likely to be provided by further and better particulars, answers to interrogatories or otherwise.”;

(b) by repealing paragraph (2) and substituting—

“(2) At the determination of a case management summons in an action commenced by writ, the Court shall direct every party to serve on the other parties, within such period as the Court may specify and on such terms as the Court may specify, written statements of the oral evidence which the party intends to adduce on any issues of fact to be decided at the trial.

(2A) The Court may give a direction to any party under paragraph (2) at any other stage of the action and at any stage of any other cause or matter.

(2B) Order 3, rule 5(3) does not apply to any period specified by the Court under paragraph (2).”;

(c) by repealing paragraph (3) and substituting—

“(3) Directions under paragraph (2) or (17) may make different provision with regard to different issues of fact or different witnesses.”;

(d) in paragraph (7), by repealing “and unless the Court otherwise orders”;

(e) in paragraph (17), by adding “(1),” after “paragraphs”.

177. Rule added

Order 38 is amended by adding—

“6. Revocation or variation of orders under rules 2 to 5 (O. 38, r. 6)

Any order under rules 2 to 5 (including an order made on appeal) may, on sufficient cause being shown, be revoked or varied by a subsequent order of the Court made at or before the trial.”.

178. Restrictions on adducing expert evidence

Order 38, rule 36(1) is amended—

- (a) in subparagraph (a), by repealing “; or” and substituting a full stop;
- (b) by repealing subparagraphs (b) and (c).

179. Orders required to be drawn up

Order 42, rule 4(3) is amended—

- (a) in subparagraph (j), by repealing “and” at the end;
- (b) by adding—
 - “(k) the transfer of an action from one list to another; and”;
- (c) in subparagraph (l), by repealing “a cause or matter has been fixed to be tried or heard” and substituting “an action has been set down to be heard”.

180. Consent judgments and orders

Order 42, rule 5A(2)(b)(vi) is amended by adding “or the Lands Tribunal” after “Court of First Instance”.

181. Appeal against order of master

Order 44, rule 12 is amended—

- (a) in paragraph (1)—
 - (i) by repealing “this rule” and substituting “rule 11”;
 - (ii) by repealing the full stop and substituting “, save that the hearing shall be in open court unless the Court directs otherwise.”.
- (b) by adding—
 - “(1A) The following provisions have effect in the application of Order 58, rule 1 to an order made under rule 11—

- (a) the notice referred to in Order 58, rule 1(2) shall state the grounds of the appeal;
- (b) no fresh evidence (other than evidence as to matters which occurred after the date of the master's order) shall be admitted except on special grounds;
- (c) the judge hearing the appeal has the same power to draw inferences of fact as has the Court of Appeal under Order 59, rule 10(3) of the Rules of the High Court (Cap. 4 sub. leg. A)."

182. Rule substituted

Order 48, rule 3 is repealed and the following substituted—

“3. Record of judgment debtor’s evidence given at examination (O. 48, r. 3)

A master conducting the examination 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 or other person at the examination.”.

183. Rule added

Order 49B is amended by adding immediately after rule 1A—

“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.”.

184. Application for order after leave to apply granted

Order 52, rule 3 is amended by adding—

“(1A) The originating summons shall state the grounds in respect of which leave for making an application for an order of committal has been granted.”.

185. Provisions as to hearing

Order 52, rule 6(3) is amended by repealing “set out in the statement under rule 2” and substituting “as stated in the originating summons under rule 3(1A)”.

186. When costs to follow the event

Order 62, rule 3(6)(a) is amended by repealing “in accordance with Order 24, rule 3” and substituting “in pursuance of any provision of Order 24”.

187. Stage of proceedings at which costs to be dealt with

Order 62, rule 4 is amended by adding—

“(2) In the case of any proceedings transferred to the Court from any other court or tribunal, the costs of the whole proceedings, both before and after the transfer, may (subject to any order of the court or tribunal ordering the transfer) be dealt with by the Court to which the proceedings are transferred.

(3) Where under paragraph (2) the Court makes an order as to the costs of any proceedings before another court or tribunal, rules 28, 31 and 32 do not apply in relation to those costs, but, except in relation to costs of proceedings transferred from the Court of First Instance or the Lands Tribunal, the order shall specify the amount of the costs to be allowed.”.

188. Schedule 1 amended

Schedule 1 to Order 62 is amended, in Part I, in paragraph (a)(viii) of the Note to item 5, by adding “or by virtue of Order 24” after “the Court”.

189. Pleadings in particular proceedings

Order 72, rule 7(2) and (3) is repealed.

190. Appointment of guardian where person under disability does not acknowledge service

Order 80, rule 6 is amended by adding—

“(3) Where in any proceedings against a person under disability begun by petition or motion, that person does not appear by a guardian ad litem at the hearing of the petition or motion, as the case may be, the Court hearing it may—

- (a) appoint a guardian ad litem of that person in the proceedings; or
- (b) direct that an application be made by the petitioner or applicant, as the case may be, for the appointment of such a guardian.”.

191. Forms

(1) Appendix A is amended, in Form No. 26, by adding “and which is served in compliance with Order 24, rule 2” after “*A.B.*”.

(2) Appendix A is amended, in Form No. 85, by repealing everything after “(*Heading as in action*)” and before “And it appearing” and substituting—

“Upon hearing the originating summons dated the day of 20 taken out by the solicitor for the plaintiff/plaintiff and upon reading (an affidavit of filed the day of 20 of service on the defendant *C.D.* of a copy of the order of the Court dated the day of 20 and of notice of hearing of this originating summons):”.

192. “成文法” substituted by “成文法律”

The following provisions are amended, in the Chinese text, by repealing “成文法” wherever it appears and substituting “成文法律”—

- (a) Order 1, rule 5(3);
- (b) Order 5, rule 1;
- (c) Order 5, rule 4(2)(a);
- (d) Order 6, the proviso to rule 7(1);
- (e) Order 7, rule 1;
- (f) Order 11, rule 1(2)(b);
- (g) Order 11, rule 9(4);
- (h) Order 15, rule 4(2);
- (i) Order 15, rule 13(1)(c);
- (j) Order 23, rule 3;
- (k) Order 28, rule 1;
- (l) Order 46, rule 2(2);
- (m) Order 49, rule 1(1);

- (n) Order 52, rule 9;
- (o) Order 65, rule 3(1);
- (p) Order 65, rule 6;
- (q) Order 81, rule 1.

193. “認收送達” substituted by “送達認收”

(1) The following provisions are amended, in the Chinese text, by repealing “認收送達” wherever it appears and substituting “送達認收”—

- (a) Order 1, rule 4(3);
- (b) Order 6, rule 2(b);
- (c) Order 6, rule 5(3) and (4);
- (d) Order 10, rule 1(5);
- (e) Order 10, rule 2(2);
- (f) Order 11, rule 1(3);
- (g) Order 11, rule 4(4);
- (h) Order 11, rule 9(6);
- (i) Order 12, rule 1(1), (2), (3), (4) and (5);
- (j) Order 12, rule 3(2) and (3);
- (k) Order 12, rule 5;
- (l) Order 12, rule 6(2);
- (m) Order 12, rule 7;
- (n) Order 12, rule 8(7);
- (o) Order 12, rule 8A(4);
- (p) Order 12, rule 9(1);
- (q) Order 12, rule 10;
- (r) Order 13, rule 6(1);
- (s) Order 13, rule 6A;
- (t) Order 13, rule 7(1)(a);
- (u) Order 13, rule 7A(2)(c);
- (v) Order 13, rule 8;
- (w) Order 15, rule 3(2) and (4);
- (x) Order 15, rule 8(3) and (4);
- (y) Order 15, rule 13A(4);

- (z) Order 16, rule 3(3);
- (aa) Order 16, rule 8(3);
- (ab) Order 16, rule 9(3);
- (ac) Order 16, rule 10(1);
- (ad) Order 18, rule 2(1);
- (ae) Order 21, rule 1;
- (af) Order 28, rule 1A(1), (3) and (4);
- (ag) Order 28, rule 2(2) and (3);
- (ah) Order 28, rule 3(5)(a);
- (ai) Order 28, rule 6;
- (aj) Order 28, rule 7(1);
- (ak) Order 29, rule 2(6);
- (al) Order 29, rule 10(1);
- (am) Order 43, rule 1(1);
- (an) Order 44, rule 2(4), (5) and (6);
- (ao) Order 47, rule 1(2);
- (ap) Order 62, rule 3(11);
- (aq) Order 65, rule 9;
- (ar) Order 67, rule 1(3);
- (as) Order 67, rule 5(3)(a);
- (at) Order 67, rule 6(1)(a);
- (au) Order 77, rule 3(2) and (3);
- (av) Order 80, rule 2(1);
- (aw) Order 80, rule 3(6)(b);
- (ax) Order 80, rule 6(1), (2) and (5)(d);
- (ay) Order 81, rule 4(1), (2), (3), (4) and (5);
- (az) Order 81, rule 5(2)(a) and (b) and (3)(a);
- (ba) Order 83A, rule 4(3);
- (bb) Order 84A, rule 3(3);
- (bc) Order 86, rule 1(2);
- (bd) Order 88, rule 4(1);
- (be) Order 89, rule 2(5);
- (bf) Order 113, rule 2;
- (bg) Appendix A, Form No. 8;

- (bh) Appendix A, Form No. 14;
- (bi) Appendix A, Form No. 15;
- (bj) Appendix A, Form No. 17;
- (bk) Appendix A, Form No. 20;
- (bl) Appendix A, Form No. 52.

(2) The following provisions are amended, in the Chinese text, in the heading, by repealing “認收送達” and substituting “送達認收”—

- (a) Order 12, rule 1;
- (b) Order 12, rule 5;
- (c) Order 12, rule 6;
- (d) Order 12, rule 9;
- (e) Order 12, rule 10;
- (f) Order 16, rule 3;
- (g) Order 21, rule 1;
- (h) Order 28, rule 6;
- (i) Order 80, rule 6;
- (j) Order 81, rule 4;
- (k) Order 88, rule 4.

Made this 4th day of June 2008.

The Hon. Mr. Justice MA
Chief Judge of the High Court

H. H. Judge CARLSON

H. H. Judge LOK

Mr. P. Y. LO

Mr. Thomas SO

Mr. Siu-tung POON
Secretary

Explanatory Note

Implementation of the majority of recommendations made in the Final Report of the Chief Justice's Working Party on Civil Justice Reform requires amendments to the Rules of the High Court (Cap. 4 sub. leg. A) ("the RHC"). The principal purpose of these Rules is to make, where applicable, similar amendments to the Rules of the District Court (Cap. 336 sub. leg. H) ("the RDC") so that the relevant recommendations may also be implemented at the District Court level. These Rules also makes amendments to the RDC to eliminate certain differences between the RHC and the RDC.

Parts 2 to 9, 11 to 18 and 20 to 22

2. The amendments contained in Parts 2 to 9, 11 to 18 and 20 to 22 are similar to those contained in the relevant Parts of the Rules of the High Court (Amendment) Rules 2008 (L.N. 152 of 2008). Part 5 also adds 2 new Orders (new Orders 8 and 9) to the RDC. The 2 new Orders are similar to Orders 8 and 9 of the RHC.

Part 10

3. Part 10 repeals Order 23A of the RDC and adds a new Order 25 to the RDC to prescribe the procedure and practice regarding case management. The new Order 25 is similar to Order 25 of the RHC.

Part 19

4. Part 19 amends Order 58 of the RDC to—

- (a) provide that an appeal against an order for imprisonment made by a master under Order 49B of the RDC lies to the Court of Appeal as of right;
- (b) extend the period within which an application for leave to appeal against a judgment, order or decision of a master may be made from 14 days to 28 days;
- (c) extend the period within which an appeal to the Court of Appeal may be made from 14 days to 28 days;
- (d) add a new rule to clarify what are not interlocutory judgments or orders for the purpose of determining the time limits for appeal to the Court of Appeal from a judgment or order of a District Judge.

Part 23

5. Part 23 replaces Order 34 of the RDC by a new Order 34. The new Order is similar to Order 34 of the RHC.

Part 24

6. Part 24 makes miscellaneous amendments to the RDC for consistency with the relevant provisions of the RHC.