

HONG KONG COURT OF FINAL APPEAL

(AMENDMENT) RULES 1999

(Made by the Court of Final Appeal Rules Committee under section 39 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484))

1. Filing

Rule 5(2) and (3) of the Hong Kong Court of Final Appeal Rules (Cap. 484 sub. leg.) is amended by repealing "Notice of Appeal" and substituting "notice of application".

2. Withdrawal of application

Rule 11(1) is amended by repealing "in writing to that effect" and substituting ", in Form D in Schedule 1, ".

3. Rule substituted

Rule 16 is repealed and the following substituted---

"16. Service of Notice of Appeal

The Appellant shall---

(a) within 7 days after the day of the filing of his Notice of Appeal, serve a copy of the Notice on all the other parties to the proceedings in the court below; and

(b) within 7 days after the service of the copy mentioned in paragraph (a), file an affidavit of service. "

4. Filing and service of Part A

Rule 32 is amended by repealing "a copy" where it first appears and substituting "6 copies".

5. Approval by Registrar

Rule 36 is amended by repealing "35" and substituting "45".

6. Filing and service of Part B

Rule 37 is amended by repealing "21" and substituting "28".

7. List of authorities to be filed

Rule 42 is amended by repealing "14" and substituting "21".

8. Rule added

The following is added---

"64A. Directions

At any time after the Appellant has filed his Case in accordance with rule 25, the Registrar or a single permanent judge may give such directions as the circumstances may require and may order the parties to the proceedings to appear before him for that purpose. "

9. Directions by Registrar in matters of practice and procedure

Rule 65(1) is amended by adding "and without prejudice to rule 64A, " before "the Registrar".

10. Extensions, etc., of time

Rule 70 is amended---

(a) in subrule (1), by adding "without having to conduct a hearing and" before "on such terms";

(b) by repealing subrule (3).

11. Right to inspect, etc., certain documents
filed in Registry

Rule 72(1) is amended by adding before paragraph (a)---

"(aa) the application for leave to appeal;"

12. Rule substituted

Rule 77 is repealed and the following substituted---

"77. Notice of final determination of appeal

Where, on the final determination of any appeal, the Appellant or Respondent is in custody, the Registrar shall give notice of the determination---

(a) to the Commissioner of Correctional Services; and

(b) if the party in custody has not been present at the final determination, to that party. "

13. Forms

Schedule 1 is amended---

(a) in Form A, by repealing "IN THE COURT OF FINAL APPEAL" and "HONG KONG" and substituting "IN THE COURT OF FINAL APPEAL OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION";

(b) in Form B, by repealing everything before "BETWEEN" and substituting---

"Form B

Application for leave to appeal

(Rule 4)

IN THE COURT OF FINAL APPEAL OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION
CIVIL/CRIMINAL APPEAL NO. OF .
(ON APPEAL FROM OF)";

(c) in Form C, by repealing everything before "BETWEEN" and substituting---

"Form C

Notice of Appeal

(Rule 14)

IN THE COURT OF FINAL APPEAL OF THE HONG
KONG SPECIAL ADMINISTRATIVE REGION
CIVIL/CRIMINAL APPEAL NO. OF .

(ON APPEAL FROM OF);

(d) in Form D, by repealing everything before "TAKE NOTICE" and substituting---
"Form D

Application to withdraw an appeal or an
application for leave to appeal
(Rules 11 and 17)

IN THE COURT OF FINAL APPEAL OF THE HONG
KONG SPECIAL ADMINISTRATIVE REGION

CIVIL/CRIMINAL APPEAL NO. OF .

(ON APPEAL FROM OF);

(e) in Form E, by repealing everything before "PLEASE ENTER" and substituting---
"Form E

Appearance
(Rule 20)

IN THE COURT OF FINAL APPEAL OF THE HONG
KONG SPECIAL ADMINISTRATIVE REGION

CIVIL/CRIMINAL APPEAL NO. OF .

(ON APPEAL FROM OF);

(f) in Form F, by repealing everything before "LET" and substituting---
"Form F

Summons (General Form)

IN THE COURT OF FINAL APPEAL OF THE HONG
KONG SPECIAL ADMINISTRATIVE REGION

CIVIL/CRIMINAL APPEAL NO. OF .

(ON APPEAL FROM OF);

(g) in Form G, by repealing everything before "TAKE NOTICE" and substituting---

"Form G

Notice of Motion

IN THE COURT OF FINAL APPEAL OF THE HONG
KONG SPECIAL ADMINISTRATIVE REGION

CIVIL/CRIMINAL APPEAL NO. OF .

(ON APPEAL FROM OF).

Made this 4th day of January 1999.

Andrew LI The Hon. Mr. Justice LITTON

The Hon. Chief Justice

The Hon. Mr. Justice CHING Mr. Gerard McCOY, S. C.

Michael BUNTING Esq. Mr. Patrick CHU
Nicholas HUNSWORTH Esq. Mr. Anthony WU Lang-meng
E. T. S. WOOLLEY Esq.

Explanatory Note

The main purpose of these Rules is to amend the Hong Kong Court of Final Appeal Rules (Cap. 484 sub. leg.) ("the principal Rules").

2. Rule 1 amends rule 5 of the principal Rules so that in a criminal cause or matter, copies of the notice of application shall be filed in the Registry of the Hong Kong Court of Final Appeal ("the Court").
3. Rule 2 amends rule 11 of the principal Rules, requiring that the notice to be given by the applicant who wishes to withdraw his application shall be in Form D in Schedule 1.
4. Rule 3 amends rule 16 of the principal Rules, providing that an affidavit of service of a copy of the Notice of Appeal shall be filed within 7 days after the service.
5. Rule 4 amends rule 32 of the principal Rules, providing that 6 copies (instead of one copy) of Part A of the Record shall be filed in the Registry of the Court.
6. Rule 5 amends rule 36 of the principal Rules, requiring the Appellant to submit a copy of the proposed Part B of the Record to the Registrar when the parties have agreed the contents of Part B or in any event not later than 45 days (instead of 35 days) before the date appointed for the hearing of the appeal.
7. Rule 6 amends rule 37 of the principal Rules, requiring the Appellant to file 6 copies of Part B of the Record as soon as he receives notification from the Registrar of his approval of Part B, or in any event not later than 28 days (instead of 21 days) before the date appointed for the hearing of the appeal.
8. Rule 7 amends rule 42 of the principal Rules, requiring each party to file, not less than 21 days (instead of 14 days) before the date appointed for the hearing of the appeal, a list of the authorities he proposes to cite at the hearing.
9. Rule 8 adds a provision to the principal Rules, providing the Registrar and a single permanent judge of the Court the power to give directions after the Appellant has filed his Case and rule 9 makes consequential amendments to rule 65 of the principal Rules.
10. Rule 10 amends rule 70 of the principal Rules, making it clear that the Court may, without having to conduct a hearing, by order extend or abridge the period within which a person is required or authorized by the principal Rules, or by any judgment, order or direction, to do any act in any proceedings. That rule also removes the provision providing for the extension of time by written consent without an order of the Court being made for that purpose.

11. Rule 11 amends rule 72 of the principal Rules, providing clearly that any person may inspect, search for and obtain a copy of an application for leave to appeal upon the payment of a prescribed fee.

12. Rule 12 amends rule 77 of the principal Rules, providing that where, on the final determination of an appeal the Appellant or Respondent is in custody, the Registrar shall give the Commissioner of Correctional Services notice of the determination, and if the party in custody has not been present at the final determination, the Registrar shall also give notice of the determination to that party.

13. Rule 13 amends the forms in Schedule 1 to standardize the headings and titles of these forms.