

L.N. 39 of 1999

RULES OF THE HIGH COURT (AMENDMENT) RULES 1999

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

1. Commencement

Rules 2 and 4 of these Rules shall come into operation on a day to be appointed by the Chief Justice by notice in the Gazette.

2. Service of process, etc.,
out of the jurisdiction

Order 11 of the Rules of the High Court (Cap. 4 sub. leg.) is amended---

(a) in rule 5---

(i) in the heading, by repealing "abroad" and substituting "out of jurisdiction";

(ii) in paragraph (2)---

(A) by repealing "Nothing in this rule or in" and substituting "Nothing in this rule, rule 5A or";

(B) by adding "or place" after "country" where it twice appears;

(iii) in paragraph (3)---

(A) in subparagraph (a), by adding "or place" after "country";

(B) in subparagraph (b), by adding "rule 5A," before "rule 6";

(iv) in paragraph (5)---

(A) by adding "rule 5A or" before "rule 6";

(B) by adding "or place" after "country" wherever it appears;

(b) by adding---

"5A. Service of writ in the Mainland of
China through judicial authorities

(O. 11, r. 5A)

(1) Where in accordance with these rules, a writ is to be served on a person to be served in the Mainland of China, the writ shall be served through the judicial authorities of the Mainland of China.

(2) A person who wishes to serve a writ under paragraph (1) must lodge in the Registry a request for such service, together with 2 copies of the writ and 2 additional copies thereof for the person to be served.

(3) The request lodged under paragraph (2) must contain---

(a) the full name and address of the person to be served;

(b) a description of the nature of proceedings; and

(c) if a particular method of service by the judicial authorities of the Mainland of China is desired by the person making the request, an indication of that particular

method.

(4) Every copy of a writ lodged under paragraph (2) must be in Chinese or accompanied by a Chinese translation.

(5) Every translation lodged under paragraph (4) must be certified by the person making it to be a correct translation; and the certificate must contain a statement of that person's full name, of his address and of his qualifications for making the translation.

(6) Documents duly lodged under paragraph (2) shall be sent by the Registrar to the judicial authorities of the Mainland of China with a request that they arrange for the writ to be served or, where a particular method of service is indicated under paragraph (3)(c), to be served by that method.";

(c) by adding---

"8A. Undertaking to pay expenses of service by the Registrar
(O. 11, r. 8A)

Every request lodged under rule 5A must contain an undertaking by the person making the request to be responsible personally for all expenses incurred by the Registrar in respect of the service requested and, on receiving due notification of the amount of those expenses, to pay that amount to the Treasury and to produce a receipt for the payment to the Registrar.";

(d) in rule 9(7), by repealing "5, 6 and 8" and substituting "5, 5A, 6, 8 and 8A".

3. Appeal from District Court

Order 59, rule 19(3)(a) is amended by repealing "signed, entered" and substituting "sealed".

4. Service of foreign process

(1) The heading before Order 69 is amended by repealing "FOREIGN PROCEEDINGS" and substituting "PROCEEDINGS OF A COUNTRY OR PLACE OUTSIDE HONG KONG".

(2) Order 69 is amended---

(a) in the heading, by repealing "Foreign Process" and substituting "Process from A Country or Place Outside Hong Kong";

(b) in rule 2---

(i) by repealing "a foreign court or tribunal" and substituting "a court or tribunal of a country or place outside Hong Kong";

(ii) in subparagraph (a), by repealing "or";

(iii) in subparagraph (b)---

(A) by repealing "foreign";

(B) by repealing the full stop and substituting "; or";

(iv) by adding---

"(c) where the court or tribunal is in the Mainland of China, from the judicial

authorities of the Mainland of China.";

(c) in rule 3---

(i) by repealing paragraph (1) and substituting---

"(1) If the request is in a language other than either or both of Hong Kong's official languages, it shall be accompanied by a translation of the request in either of Hong Kong's official languages, 2 copies of the process and, unless the court or tribunal of a country or place outside Hong Kong certifies that the person to be served understands the language of the process, 2 copies of the translation of the process.";

(ii) in paragraphs (3) and (5), by repealing "foreign process" wherever it appears and substituting "process from a country or place outside Hong Kong";

(iii) in paragraph (6), by adding ", the judicial authorities of the Mainland of China" after "or other authority".

5. Title, service, etc. of notice of motion

Order 106, rule 12(3) is amended by adding "由" before "遭上訴".

6. Forms

Appendix A is amended in Form No. 99 by repealing "Commissioner of Prisons" and substituting "Commissioner for Correctional Services".

Made this 1st day of February 1999.

Andrew LI The Hon. Mr. Justice

The Hon. Chief Justice NAZARETH

Mr. Robert G. KOTEWALL Mr. W. R. MARSHALL

Mr. E. T. S. WOOLLEY Mr. Roderick B. WOO

Mr. Michael BUNTING Mr. Nick HUNSWORTH

Explanatory Note

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

(a) the service of writs in the Mainland of China (rule 2);

(b) the service in Hong Kong of judicial documents from the Mainland of China (rule 4); and

(c) the rectification of certain minor drafting irregularities of the Rules of the High Court (Cap. 4 sub. leg.)(rules 3, 5 and 6).