

**CONCORDANCE TABLE
RULES OF THE DISTRICT COURT AND THE RULES OF THE HIGH COURT**

General				Unless otherwise stated, those rules in Rules of the District Court (RDC) “ticked” as from the Rules of the High Court (RHC) are either identical or substantially the same, with minor modifications, as the corresponding rules in the RHC.	
RDC	From RHC	From Kempster	Further Revision	Remarks	Note
O.1 Citation, Application, Interpretation and Forms	✓	✓			
O.2 Effect of Non-compliance	✓	✓			
O.3 Time	✓	✓			
O.4 Transfer and Consolidation of Proceedings	✓	✓			
O.5 Mode of Beginning Civil Proceedings in the Court rr.1-4 r.5	✓	✓ ✓ ✓		Originating motion & petition omitted r.6 RHC [right to sue in person] omitted	1 2
O.5A Right to Act in Person		✓		Right for body corporate to act in person in present DCO retained	2
O.6 Writ of Summons: General Provisions	✓	✓			
O.7 Originating Summonses: General Provisions	✓	✓			

RDC	From RHC	From Kempster	Further Revision	Remarks	Note
		✓		O.8 RHC [originating motion] omitted	1
		✓		O.9 RHC [petition] omitted	1
O.10 Service of Originating Process: General Provisions	✓	✓			
O.11 Service of Process, etc., Out of Jurisdiction Except rr.5A & 8A	✓	✓	✓	Modification made to the relevant rules in RHC in respect of service of judicial documents in mainland China	3
O.12 Acknowledgment of Service of Writ or Originating Summons	✓	✓			
O.13 Failure to Give Notice of Intention to Defend	✓	✓			
O.14 Summary Judgment	✓	✓		Previously not available to DC	4
O.14A Disposal of Case on Point of Law	✓	✓		Previously not available to DC	4
O.15 Causes of Action, Counterclaims and Parties	✓	✓			
O.16 Third Party and Similar Proceedings	✓	✓			
O.17 Interpleader	✓	✓			

RDC	From .RHC	From Kempster	Further Revision	Remarks	Note
O.18 Pleadings rr.1 -20 r.21 r.22	✓ ✓	✓	✓ ✓	Power to order trial without pleadings on court's own motion added Power to frame issues for parties in lieu of pleadings added	5 5
O.19 Default of Pleadings	✓	✓			
O.20 Amendment	✓	✓			
O.21 Withdrawal and Discontinuance	✓	✓			
O.22 Payment Into and Out of Court	✓	✓			
O.23 Security for Costs	✓	✓			
O.23A Directions for Actions Begun by Writ		✓ ✓	✓	Agreed or automatic directions Application for pre-trial review before setting down Automatic exchange of witness statements	6 6 6

RDC	From RHC	From Kempster	Further Revision	Remarks	Note
O.24 Discovery and Inspection of Documents Except	✓	✓		Discovery under automatic directions instead of mutual discovery	6
				O.25 RHC [summons for directions] replaced by O.23A	6
O.26 Interrogatories r.1 rr.2-8	✓	✓ ✓		Interrogatories only with leave of court	7
O.27 Admissions Except	✓	✓ ✓		Consequential amendment upon O.34 which replaces setting down in RHC with pre-trial review	
O.28 Originating Summons Procedure	✓	✓			
O.29 Interlocutory Injunctions, Interim Preservation of Property, Interim Payments, etc.	✓	✓			
O.30 Receivers	✓	✓			
O.31 Sales, etc., of Land by Order of Court	✓	✓			

RDC	From RHC	From Kempster	Further Revision	Remarks	Note
O.32 Interlocutory Applications and Other Proceedings in Chambers	✓		✓	Introduction of the system of Masters to the DC	8
Except rr.17			✓	Decision whether to refer to a judge is non appealable.	11
O.33 Place and Mode of Trial	✓	✓			
Except r.2		✓		No jury trial in DC as at present	
O.34 Pre-trial Review and Fixing Date for Trial of Actions Begun by Writ		✓		Pre-trial review	9
O.35 Procedure at Trial	✓	✓			
O.36 Trials Before and Inquiries by Master with Consent of Parties	✓	✓			
O.37 Damages: Assessment After Judgment and Orders for Provisional Damages	✓	✓			
Except r.1		✓		Assessment of damages by Master only if by consent, otherwise by a judge	
O.38 Evidence	✓	✓			
Except r.2A(3)		✓	✓	Modification to bring the rule in line with automatic directions introduced under O.23A, r.5 and the amendment made to the Evidence Ordinance in 1999	

RDC	From RHC	From Kempster	Further Revision	Remarks	Note
O.39 Evidence by Deposition Except	✓	✓	✓	R.2 (Where person to be examined is out of the jurisdiction), r.3 (Order for issue of letter of request) and r.3A (Examination otherwise than on oath) of RHC are omitted as the relevant powers rest with the High Court	
O.40 Court Expert	✓	✓			
O.41 Affidavits	✓	✓			
O.42 Judgments and Orders Except r.5B	✓	✓		Simplification of the procedure for handing down of judgments	
O.43 Accounts and Inquiries	✓	✓			
O.44 Proceedings Under Judgments and Orders	✓	✓			
O.44A Prohibition Order Before or After Judgment and Attachment of Property Before Judgment	✓	✓			
O.45 Enforcement of Judgments and Orders: General	✓	✓			
O.46 Writs of Execution: General	✓	✓			
O.47 Writs of Fieri Facias	✓	✓			

RDC	From RHC	From Kempster	Further Revision	Remarks	Note
O.48 Examination of Judgment Debtor, etc.	✓	✓			
O.49 Garnishee Proceedings	✓	✓			
O.49B Execution and Enforcement of Judgment For Money by Imprisonment	✓	✓			
O.50 Charging Orders, Stop Orders, etc.	✓	✓			
O.51 Receivers: Equitable Execution	✓	✓			
O.52 Committal Except r.3 r.6(1)	✓	✓ ✓		Application by originating summons instead of by motion Exclusion of wardship proceedings	10

RDC	From RHC	From Kempster	Further Revision	Remarks	Note
O.58 Appeals				<u>Appeals from Masters</u>	11
r.1(1)	✓	✓		Decisions other than under O.14 r.6(2), O.36 r.1, O.37, O.49B, O.84A r.3 lie to District Judge in chambers	
r.2(2)	✓	✓		Decisions under O.14 r.6(2), O.36 r.1, O.37, O.49B, O.84A r.3 lie to Court of Appeal with leave	
r.2(1)		✓		<u>Appeals from District Judges</u> Appeals from a District Judge's decision lie to the Court of Appeal with leave	
r.2(4)	✓		✓	To provide for different time periods for application for leave to appeal against interlocutory orders and against decisions other than interlocutory orders	
r.2(9)			✓	To provide for time for appeal to Court of Appeal under section 63(3) of the Ordinance	
r.2(8)			✓	<u>Notice of appeal</u> To provide for notice of appeal to be given within 7 days after obtaining leave to appeal	

RDC	From RHC	From Kempster	Further Revision	Remarks	Note
O.62 Costs Except rr.2/12	✓	✓		Reference to costs of arbitration omitted	
r.4		✓		Power of Court of Appeal (in appeals) and CFI (in cases transferred from the DC) to deal with costs below omitted	
r.6		✓		Reference to costs of probate action omitted	
r.9A	✓		✓	Interim assessment of costs for frivolous and vexatious interlocutory applications in line with pending amendment to RHC	12
		✓		R.17(2) & (3), r.21(3) [taxation of solicitor and own client's bills] omitted	13
rr.13 & 21(4)	✓		✓	To increase provisional taxation by Chief Judicial Clerk to bills not exceeding \$100,000	14
r.32 (1A)		✓		Costs allowed in the DC to be 2/3 of the equivalent in the HC as per DCCP(C)R retained	15
1 st Sch. Pt. II, para. 2(3)		✓	✓	Requirement of certificate of counsel as per DCCP(C)R retained subject to dispensation in case of recovery over \$150,000	

RDC	From RHC	From Kempster	Further Revision	Remarks	Note
O.63 Registry Except r.3(3)	✓	✓ ✓ ✓		Keeping of records by electronic means r.10 RHC [enrolment of deeds in HC] omitted	
O.64 Court Offices Except	✓	✓ ✓		No vacation in the DC as at present	
O.65 Service of Documents	✓	✓			
O.66 Paper, Printing, Notices and Copies	✓	✓			
O.67 Change of Solicitor Except	✓	✓ ✓		Reference to Court of Appeal omitted	
O.68 Official Shorthand Note	✓	✓			
O.72 Particular Proceedings	✓		✓		16
O.77 Proceedings By and Against Government	✓	✓			
O.78 High Court Proceedings Transferred to Court		✓		C/f O.78 RHC [DC proceedings to HC]	
O.79 Tribunal Proceedings Transferred or Removed to Court	✓	✓			

RDC	From RHC	From Kempster	Further Revision	Remarks	Note
O.80 Disability Except r.13 r.15(2)	✓	✓ ✓		Corresponding rule on transfer of moneys between HC & DC Reference to jury omitted	
O.81 Partners	✓	✓			
O.82 Defamation Actions Except	✓	✓		Trial by jury in defamation deleted	
O.83A Money Lenders' Actions	✓	✓			
O.84A Actions Arising Out of Hire-purchase or Conditional Sale Agreements	✓	✓			
O.85 Administration and Similar Actions	✓	✓			
O.86 Actions for Specific Performance, etc.: Summary Judgment Except	✓	✓ ✓		Minor amendment as to giving directions	
O.88 Mortgage Actions	✓	✓			

RDC	From RHC	From Kempster	Further Revision	Remarks	Note
O.89 Proceedings Between Husband and Wife Except r.1	✓	✓ ✓		Reference to Separation and Maintenance Orders Ordinance (Cap.16) added	
O.90 Proceedings Concerning Minors		✓ ✓		Wardship proceedings omitted from RHC Procedure under the Guardianship of Minors Ordinance (Cap.13)	
O.92 Lodgment, Investment, etc. of Funds in Court	✓	✓			
O.93 Applications under Variation of Trusts Ordinance Except	✓	✓ ✓		Applications under Copyright Ordinance (Cap.528) omitted	
O.113 Summary Proceedings for Possession of Land	✓	✓			

EXPLANATORY NOTES TO THE CONCORDANCE TABLE
OF THE DISTRICT COURT RULES & RULES OF THE HIGH COURT

Note	
1	The Kempster Working Party (“Kempster”) recommended streamlining of the originating processes by retaining only the writ (for actions with substantial disputes of facts) and the originating summons (for matters of construction of law or documents without substantial disputes of facts). Originating motion and petition are not available in the DC.
2	Under s.15 of the District Court Ordinance, any party to the proceedings may address the court. Under current practice, corporation may appear by an officer or agent with leave of the court. The new rules preserve this more relaxed practice as opposed to requiring the corporation to prove lack of resources as in RHC.
3	The entrusted parties under the reciprocal arrangement for the service of judicial documents between the Hong Kong Special Administrative Region and the Mainland China are the High Court of Hong Kong and the Higher People’s Courts in the mainland. Requests for service of a judicial document to the mainland filed in the DC Registry will therefore be effected through the Registrar, HC.
4	Under the existing District Court Civil Procedure (General) Rules (DCCP(G)R), a defendant intending to defend a claim shall file a defence direct without filing an acknowledgment of service. After filing of the defence, the plaintiff may make an application for summary judgment upon the framing of issues. Hence, the procedure of applying for summary judgment after the filing of an acknowledgment of service but before the defence under RHC is not available to the DC, nor is the power of the court to grant conditional leave to defend. The new rule will bring the summary judgement procedures in the DC in line with that of the HC.
5	Under DCCP(G)R, the court may on its motion order a trial without pleadings. The judge may frame and settle the issues in dispute between the parties instead of ordering the filing of formal pleadings. This is particularly useful where parties are unrepresented. It is therefore proposed that this power should be retained

6	<p>Kempster recommended that parties shall endeavour to agree on the directions as to the preparation for trial, failing which a set of standard directions deemed to be ordered by the court shall apply. This seeks to dispense with the parties seeking directions from the court at the outset where the directions in the run of the mill cases are usually quite standard and unopposed.</p> <p>It is now proposed that standard directions should include:-</p> <ul style="list-style-type: none"> (a) Discovery and inspection of documents; (b) Disclosure of expert report; (c) Number of expert to limited to 1 for each party; (d) Admissibility of record of proceedings of any court or tribunal; (e) Application of pre-trial review within 3 months of inspection; and (f) Automatic exchange of witness statements <p>These are slight modifications in respect of personal injury cases in line with RHC. If any party consider that the standard orders are inappropriate, and are unable to agree upon the directions, they can always take out a summons before the court for directions Upon the pre-trial review, the court can monitor whether the case is ready for trial. If so, the court shall grant leave for the action to be set down or fix a date for trial. If not, the court may adjourn the pre-trial review to another date to further monitor the progress.</p>
7	<p>Kempster recommended that interrogatories be only administered with the leave of court. This serves to streamline interlocutory proceedings and to save costs</p>
8	<p>At present, the Registrar and Deputy Registrar of the DC are filled by non-judicial officers. They carry out very limited judicial functions, such as provisional taxation of costs, etc. Interlocutory applications are dealt with by judges in chambers on top of the trial lists. Upon the increase in the civil jurisdiction, it is envisaged that the number of interlocutory applications will greatly increase, and a system of Practice Master will also be necessary. It is proposed that a Master's system be introduced to deal with the interlocutory applications. rr.7-15 expressly provides for procedures for disposal of matters in chambers which have been in practice.</p>

9	This serves to monitor whether directions agreed upon or given (automatic or upon hearing) have been complied with, and whether further directions be needed. If the case is ready for trial, it can then be set down.
10	Application by originating summons can be adjourned into open court when dealing with liberty of the subject.
11	<p><u>Appeals from masters</u></p> <p>Appeals against interlocutory orders other than under O.14 r.6(2) (trial before a master by consent), O.36 r.1 (trial or inquiry by a Master), O.37 (assessment of damages), O.49B (examination of judgement debtors), O.84A r.3 (default judgment in hire purchase case) lie to a District Judge in chambers as of right as in the case under RHC. The settled practice is by way of rehearing. The appeal should be made within 14 days.</p> <p>Appeals against decisions under O.14 r.6(2), O.36 r.1, O.37, O.49B, O.84A r.3 lie to the Court of Appeal with leave of the court or the Court of Appeal as in the case under RHC. Application for leave should be made to the Master within 14 days.</p> <p>Decision whether to refer a matter before a judge is non-appealable in order to save costs, since if the Masters decide to deal with the matter himself or herself, the substantive decision is appealable.</p> <p><u>Appeals from District Judges</u></p> <p>Appeals against the decision of District Judges lie to the Court of Appeal with leave of the Court or the Court of Appeal as at present.</p> <p>For appeals against an interlocutory order by a District Judge, application for leave must be made to the judge within 14 days (as opposed to the present provision of 28 days) [ref. RHC O.59 r.4(3)], as it is considered not justifiable to allow a much longer period for application of leave to appeal against an interlocutory order by the District Judge and it is the intention to bring the practice in line with that of the High Court. For appeals against decisions other than interlocutory orders by the District Judge, application for leave must be made to the District Judge within 28 days (section 63(1) of the Ordinance).</p>

	<p>Where the District Judge refuses leave to appeal, the appellant can appeal against the refusal to Court of Appeal within 14 days (as at present).</p> <p>For the appeal of an order referred to in section 63(3) of the Ordinance, the notice of appeal must be served within 14 days.</p>
12	<p>It is proposed that the court should have the power to order interim assessment and payment of costs forthwith without taxation. The interim payment is on account of the costs pending taxation and the receiving party has to give credit for the sum so paid upon that taxation. The proposal is designed to achieve the intended benefits of discouraging frivolous interlocutory applications without the risk of conducting a mini-taxation and the associated problems, as a party intending to apply for such order should supply a short skeleton bill only. Having considered the views of the Civil Court Users' Committee, the High Court Rules Committee decided to amend the RHC to give effect to the proposal. The amendment rules will be submitted to the Legislative Council for negative vetting by April 2000. In order to achieve consistency and the same benefits, it is proposed that similar provisions for immediate assessment and payment of costs should be introduced to the new DC rules.</p>
13	<p>Under s.67, Legal Practitioner Ordinance (Cap. 159), taxation of bills between solicitor and own client is to be dealt with in the HC.</p>
14	<p>Kempster recommended provisional taxation by the Chief Judicial Clerk of bills up to \$50,000 in line with the practice in the HC at the time. It is proposed that the amount be increased to \$100,000, in line with amendment to RHC subsequent to the Kempster Report.</p>

15	Under the District Court Civil Procedure (Costs) Rules, counsel's fee will not be allowed on taxation unless the judge has certified the matter to be fit for counsel. Kempster recommended the retention of the certificate subject to dispensation in case of recovery over \$150,000. It is proposed that no revision be made to \$150,000 for the time being notwithstanding further increase in jurisdiction from the Kempster Report.
16	It is proposed that special lists such as the Personal Injuries List modelling on the HC equivalent be set up for more efficient management of cases.