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2869 9207
2877 5029

(Urgent By Fax & By Post)

5 June 2000

Judiciary
Administrative Services
(Attn. : Ms Rebecca PUN,
Assistant Judiciary Administrator)
Room LG254
High Court Building
38 Queensway
HONG KONG
(Fax No. : 2501 4636)

Dear Ms PUN,

The Rules of the District Court

Before we report to Members on the above Rules, we would appreciate your comments on the following points :-

Order 6, rule 5

Are the second "該地址" at the end of paragraphs (1)(b) and (1)(c) of the Chinese text necessary to reflect the English text?

Order 11, rule 1

Paragraph (1)(k) seems to be relating to a writ in a probate action, an action which would not be commenced in the District Court.

Order 11, rule 5

Would the "consular authority in that country" in paragraph (5)(a) and similar references in rule 6 include consular authority other than that of the PRC? If so, are there existing arrangements for service of writs from Hong Kong?

Order 11, rule 6

In paragraph (6) is "以" more appropriate than "具備". You may wish to refer to Order 11, rule 5A(5) for a similar rendition.

Order 13, rule 7A

Is "foreign State" in paragraph (1) the same as "foreign state" as defined in section 2 of Cap. 1?

Order 18, rule 2

Please explain the reason for rule 2(1) to require a defendant to serve a defence on the plaintiff and not on every other party. Is it the policy intent that service on other parties would only be made if the Court orders under Order 18, rule 12(3)?

Order 18, rule 22

Please clarify the difference between rule 22 and rule 21(2) in relation to the framing of issues. Rule 25(1) of the District Court Civil Procedure (General) Rules (Cap. 336 sub. leg.) provides that no party shall be at liberty to depart from issues so framed and recorded except with the leave of the Court which may be given on such terms as to costs, payment of money into court, giving security or otherwise as the Court may think fit. Why is this restriction omitted in the present Rules?

Order 22, rule 12

Please explain the reason for omitting the rule on payment of hospital expenses.

Order 24, rule 7A

Please explain the reason for omitting the definition of "a claim for personal injuries". Does the definition of "personal injuries" set out in section 3 of the District Court (Amendment) Ordinance apply to this Order? Since both definitions are different, please clarify whether the Order applies to a claim in respect of a person's death.

Order 33, rule 4(2)

In the Chinese version, there is the mentioning of "或以不同的方式審訊". Words such as "or by different modes of trial" are not found in the English version. Which version is correct?

Order 37, rule 10(5)

The English version "On the directions hearing" seems to differ from the Chinese version "在聆訊要求作指示的傳票時". Which version is correct? It is noted that for similar rule in the Rules of the High Court, the English version reads as "on the hearing of the summons for directions".

Order 42, rule 5B(1)

In the second clause of the Chinese version, "或宣布一項以前已宣告的判決或命令的理由將以書面發表", does it mean that the reason had already been pronounced but it will be given in writing? The meaning in Chinese is ambiguous and might not reflect the same meaning in English. The same comment also applies to rule 5B(2).

Order 50, rule 16

What is the reason for introducing this provision?

Order 52, rule 3(4)

Is it appropriate to substitute "he" for "it"?

Order 52, rule 6(1)(a)

What is the reason for omitting the reference to "wardship proceedings"?

Order 62, rule 9

What is the reason for omitting Order 62, rule 9(4) of the Rules of the High Court?

Order 62, rule 9A(2)(c)(i)

What will be the case if the party has no money to repay the difference?

Order 62, rule 32A

What is the reason for introducing this new provision?

Order 62, rule 35(1)

Why is the reference to rule 33 omitted (c.f. Order 62, rule 35(1) of the Rules of the High Court)?

Order 62, rule 35(6)

What is the reason for introducing this new provision?

Schedule 1 Part II, para. 1(1)

What is the reason for omitting Schedule 1 Part II, para. 1(1) of the Rules of the High Court?

Schedule 1 Part II, para. 2(3A)

What is the reason for introducing this new provision?

Schedule 1 Part II

Why is Schedule 1 Part II, para. 7 of the Rules of the High Court omitted?

Schedule 2

The provisions in Schedule 2 to the Rules of the District Court are quite different from Schedule 2 to the Rules of the High Court. Why is it necessary for adoption of a new Schedule 2?

Order 63

Could the omission of Order 63, rules 8 and 10 of the Rules of the High Court from Order 63 of the Rules of the District Court be explained?

Order 82, Rule 1

Should not "These Rules" be "These rules" for the sake of consistency?

Order 83A

Could the omission of Order 83A, rule 5 of the Rules of the High Court from Order 83A of the Rules of the District Court be explained?

Order 87

Could the omission of Order 88 of the Rules of the High Court from the Rules of the District Court be explained?

Yours sincerely,

(LEE Yu-sung)
Senior Assistant Legal Adviser

c.c. Ms Carmen CHU, Sr Govt Counsel (Fax : 2845 2215)
b.c.c. : CAS(2)3, LA, ALA1, 2, 4 & 5

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