

LN129-E

L. N. 129 of 2000

RULES OF THE HIGH COURT (AMENDMENT) RULES 2000

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

1. Appeal against master's order

Order 44, rule 12 of the Rules of the High Court (Cap. 4 sub. leg.) is amended by repealing paragraph (1) and substituting---

"(1) Subject to paragraph (2), Order 58, rule 1 shall apply to an order made under rule 11 as it applies to any judgment, order or decision of a master, save that the hearing shall be in open court unless the Court directs otherwise.

(1A) The following provisions shall 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 shall have the same power to draw inferences of fact as has the Court of Appeal under Order 59, rule 10(3).".

2. Appeals from certain decisions of masters to a judge in chambers

Order 58, rule 1(3) is amended by repealing "5" where it first appears and substituting "14".

3. Time for appealing

Order 59, rule 4(1) is amended---

(a) in subparagraph (b), by repealing "21" and substituting "28";

(b) in subparagraph (c), by repealing "6 weeks" and substituting "28 days".

4. Entitlement to costs

Order 62 is amended by adding---

"9A. Interim payment of costs

(1) If a party makes or resists an application at any stage of proceedings before the Court, the Court may---

(a) if the Court considers the application or resistance to the application, as the case may be, to be frivolous or vexatious; or

(b) for any other reason that the Court in the circumstances of the case considers just,

when ordering costs against that party in respect of the application, order that party

to pay forthwith to any other party to the application an amount which in the opinion of the Court approximates the costs that would be allowed on taxation.

(2) Upon taxation---

(a) if the taxed costs in respect of the application equal the amount paid pursuant to an order made under paragraph (1), the taxing master shall direct that no further amount is payable in respect of the taxed costs;

(b) if the taxed costs in respect of the application exceed the amount paid pursuant to an order made under paragraph (1), 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;

(c) if the amount paid pursuant to an order made under paragraph (1) exceeds the taxed costs in respect of the 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."

5. Particulars to be included in originating summons

Order 83A, rule 5 is repealed.

6. Forms

Appendix A is amended, in the second paragraph of Form No. 14, by repealing "need not be filed and served until" and substituting "must be filed and served within".

Made this 2nd day of May 2000.

Andrew LI The Hon. Mr. Justice

The Hon. Chief Justice ROGERS, J. A.

The Hon. Madam Justice Mr. Robert G. KOTEWALL

YUEN

Mr. Michael BUNTING Mr. Nicholas HUNSWORTH

Mr. Roderick B. WOO Mr. Anthony L. M WU

Mr. Jeremy S. C. POON

Deputy Registrar, High Court

Explanatory Note

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

(a) to make further provision for the appeal against a master's order under Order 44, rule 11 (rule 1);

(b) to standardize the time limit for issuing the notice of appeal under Order 58, rule 1 (rule 2);

- (c) to standardize the time limit for serving the notice of appeal under Order 59, rule 4 (rule 3);
- (d) to provide for immediate payment of costs against a party who in any proceedings makes or resists an application when the application or resistance is frivolous or vexatious (rule 4);
- (e) to rectify certain minor irregularities in the Rules of the High Court (Cap. 4 sub. leg.) (rule 5);
- (f) to rectify an error occurred in Form No. 14 in Appendix A (rule 6).