
L.N. 86 of 2014

District Court Equal Opportunities (Amendment) Rules 2014

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District Court Equal Opportunities (Amendment) Rules 2014

(Made by the District Court Rules Committee under sections 73B, 73C, 73D and 73E of the District Court Ordinance (Cap. 336))

1. Commencement

These Rules come into operation on 1 November 2014.

2. District Court Equal Opportunities Rules amended

The District Court Equal Opportunities Rules (Cap. 336 sub. leg. G) are amended as set out in rules 3 to 8.

3. Part 1 heading added

The Rules—

Add

“Part 1

Preliminary”.

4. Rule 2 amended (interpretation)

(1) Rule 2—

Repeal the definition of *Court*

Substitute

“*Court* (區域法院) has the meaning given by Order 1, rule 4(2) of the Rules of the District Court (Cap. 336 sub. leg. H);”.

(2) Rule 2—

Add in alphabetical order

“*claimant* (申索人) means the person mentioned in rule 7(1);

notice in Form 1 (表格 1 通知書) means the notice of claim mentioned in rule 7(1)(a);

notice in Form 2 (表格 2 通知書) means the notice to the respondent mentioned in rule 8(1);

notice in Form 3 (表格 3 通知書) means the notice of response mentioned in rule 10(1)(a);

notice in Form 4 (表格 4 通知書) means the notice of request for further particulars mentioned in rule 9(1)(a) or 11(1)(a);

party (一方) means the claimant, the respondent or a person who is ordered under rule 12(1) to be joined in the proceeding under Part 2;

respondent (答辯人) means the person against whom a claim under a relevant Ordinance is made in accordance with rule 7;”.

5. Rule 2A substituted

Rule 2A—

Repeal the rule

Substitute

“2A. Application to Government

These Rules apply to any proceeding by or against the Government.”.

6. Rule 4 substituted

Rule 4—

Repeal the rule

Substitute

“4. Application of other rules

- (1) Subject to sections 73B(8), 73C(8), 73D(8) and 73E(8) of the Ordinance, the rules made under section 72 or 73 of the Ordinance apply to and in relation to the jurisdiction given to the Court by virtue of a relevant Ordinance.
- (2) In particular, the provisions of the Rules of the District Court (Cap. 336 sub. leg. H) (***District Court Rules***) made under section 72 of the Ordinance apply, with any necessary modifications, to and in relation to an action or proceeding falling within that jurisdiction to the extent of any matter for which no provision is made by Part 2.
- (3) However, the Court may direct that any provision of the District Court Rules made under section 72 of the Ordinance applies to and in relation to an action or proceeding falling within that jurisdiction as if Part 2 had not been enacted.”.

7. Part 2 added

After rule 6—

Add

“Part 2

Equal Opportunities Proceeding

Division 1—Commencement and Forms

7. Making claim: notice in Form 1

- (1) If a person wishes to make a claim under a relevant Ordinance, the person—

-
- (a) must file with the Court the notice of claim in Form 1 in the Appendix; and
 - (b) must provide to the Court a copy of that notice in Form 1.
- (2) The notice in Form 1 must be sealed with the seal of the Court.
- (3) The notice in Form 1 must include—
- (a) a concise statement of—
 - (i) the circumstances in which the claim is made;
 - (ii) the remedy or relief that the person claims; and
 - (iii) any question that the person wishes to have determined;
 - (b) the person's name and address; and
 - (c) the name and address of the person against whom the claim is made.

8. Notifying respondent: notice in Form 2

- (1) As soon as practicable after the notice in Form 1 is filed under rule 7(1)(a), the Court is to cause to be served on the respondent the notice to the respondent in Form 2 in the Appendix.
- (2) The notice in Form 2 must state—
- (a) that if the respondent wishes to oppose the claim, the respondent must respond to the claim in accordance with rule 10; and
 - (b) that in default of response or of appearance at the hearing time and place set out in that notice in Form 2, the Court may make an order under rule 13 or 14.

- (3) The notice in Form 2 served under subrule (1) must be accompanied by a copy of the notice in Form 1.

9. Respondent's request for further particulars: notice in Form 4

- (1) If the respondent wishes to request the claimant for further particulars of the grounds on which the claim is made, the respondent—
- (a) must specify the questions as to which the respondent wishes to have information in the notice of request for further particulars in Form 4 in the Appendix; and
 - (b) must, within 14 days after having been served with the notice in Form 2 accompanied by a copy of the notice in Form 1 under rule 8, or within any extended period that the Court may on application allow—
 - (i) file with the Court the notice in Form 4; and
 - (ii) serve on the claimant a copy of that notice in Form 4.
- (2) The claimant must, within 14 days after having been served with a copy of the notice in Form 4, or within any extended period that the Court may on application allow—
- (a) file with the Court a reply; and
 - (b) serve on the respondent a copy of the reply.
- (3) If any request for further particulars made under subrule (1) appears to the Court to be unnecessary or vexatious, the Court—
- (a) may disallow, with costs, that request; and
 - (b) may award against the respondent the costs of any reply to that request.

10. Respondent’s response: notice in Form 3

- (1) If the respondent wishes to oppose the claim, the respondent must, within 28 days after having been served with the notice in Form 2 accompanied by a copy of the notice in Form 1 under rule 8, or within any extended period that the Court may on application allow—
 - (a) file with the Court the notice of response in Form 3 in the Appendix; and
 - (b) serve on the claimant a copy of that notice in Form 3.
- (2) The notice in Form 3 must include a concise statement of the extent and grounds of the opposition.
- (3) Unless the Court orders otherwise, a request for further particulars made by the respondent under rule 9(1) does not lengthen or shorten the period specified in subrule (1).

11. Claimant’s request for further particulars: notice in Form 4

- (1) If the claimant wishes to request the respondent for further particulars of the grounds on which the claim is opposed, the claimant—
 - (a) must specify the questions as to which the claimant wishes to have information in the notice of request for further particulars in Form 4 in the Appendix; and
 - (b) must, within 14 days after having been served with a copy of the notice in Form 3 under rule 10(1)(b), or within any extended period that the Court may on application allow—
 - (i) file with the Court the notice in Form 4; and
 - (ii) serve on the respondent a copy of that notice in Form 4.

-
- (2) The respondent must, within 14 days after having been served with a copy of the notice in Form 4, or within any extended period that the Court may on application allow—
 - (a) file with the Court a reply; and
 - (b) serve on the claimant a copy of the reply.
 - (3) If any request for further particulars made under subrule (1) appears to the Court to be unnecessary or vexatious, the Court—
 - (a) may disallow, with costs, that request; and
 - (b) may award against the claimant the costs of any reply to that request.

Division 2—Proceeding after Commencement

12. Interested parties may be joined

- (1) On application of the claimant or respondent, or on its own motion, the Court may order a person appearing to the Court to be interested (*interested person*) to be joined in the proceeding under this Part.
- (2) The claimant or respondent who wishes to apply for the order—
 - (a) must file with the Court a notice of application; and
 - (b) must serve on the interested person a copy of the notice.
- (3) Unless the Court gives leave to the contrary, the copy of that notice must be served not less than 2 clear days before the hearing date set out in that notice.

13. Default of response

- (1) If no notice in Form 3 is filed by the respondent under rule 10(1)(a), the claimant—
 - (a) may apply to the Court for an order against the respondent in terms of the claim and for costs; and
 - (b) (where there is more than one respondent) may proceed with the proceeding against other respondents.
- (2) On application under subrule (1)(a), the Court may, with or without a hearing, make—
 - (a) an order in favour of the claimant in terms of the application; or
 - (b) any other order that the Court thinks just.
- (3) However, the Court may not make an order under subrule (2) if—
 - (a) the Court is not satisfied that the respondent has been served with the notice in Form 2 accompanied by a copy of the notice in Form 1 under rule 8; or
 - (b) before the order is to be made, the respondent has filed with the Court the notice in Form 3.
- (4) The Court may, on any term that it thinks fit, set aside or vary any order made under subrule (2).

14. Default of appearance

- (1) If no party appears at the time and place fixed for the hearing of the claim, the Court may by order strike out the claim for want of appearance.
- (2) If only 1 party appears at that hearing, the Court may proceed in any or all of the following ways—
 - (a) hear the evidence and submission of that party;

- (b) on the application of that party, strike out the claim for want of appearance;
- (c) adjourn the hearing on any term that the Court thinks fit.

15. Discontinuance and withdrawal

- (1) The claimant—
 - (a) may, without leave of the Court, discontinue the proceeding under this Part against the respondent, or withdraw any part of the proceeding, by—
 - (i) filing with the Court a notice to that effect; and
 - (ii) serving on the respondent a copy of the notice; and
 - (b) (where there is more than one respondent) may proceed with the proceeding against other respondents.
- (2) The respondent may, within 14 days after having been served with a copy of that notice, or within any extended period that the Court may on application allow, apply to the Court for an order for costs.
- (3) Subject to sections 73B(3), 73C(3), 73D(3) and 73E(3) of the Ordinance, the Court may make any order for costs that it thinks fit.

Division 3—Service of Process

16. Party's name and address for service provided in first document

A party must provide in the first document that the party files with the Court for the proceeding under this Part—

- (a) the party's name; and

- (b) the party's address for service for the proceeding, which must not be a post office box number.

17. Change of address for service

A party may change the party's address for service for the proceeding under this Part by—

- (a) filing with the Court a notice to that effect; and
- (b) serving on the other party a copy of the notice.

18. Manner of service

- (1) A document is taken to have been served for the proceeding under this Part on a person if the document—
 - (a) is served on the person personally;
 - (b) is sent to the person's address for service for the proceeding—
 - (i) (for the notice in Form 2 accompanied by a copy of the notice in Form 1) by registered post; or
 - (ii) (for any other document) by ordinary post or registered post;
 - (c) is enclosed in a sealed envelope addressed to the person and is inserted through any letter box at that address; or
 - (d) is served in any other manner that the Court directs.
- (2) Where the person is represented by a solicitor, a document is also taken to have been served for the proceeding under this Part on a person if the document is delivered to or left for the solicitor, or sent by ordinary post addressed to the solicitor, at the solicitor's place of business.

19. Time at which service by ordinary post is effected

- (1) This rule applies to a document that is taken to have been served for the proceeding under this Part on a person by ordinary post under rule 18(1)(b)(ii) or (2).
- (2) Unless the contrary is proved, the document is taken to have been served for the proceeding under this Part on the person at the time at which the document would be delivered in the ordinary course of post.

20. Substituted service

If it appears to the Court that, after reasonable efforts, it has not been possible to serve on a person a document in such a way that the document would be taken to have been served on the person under rule 18, the Court—

- (a) may dispense with service on the person; and
- (b) may order substituted service in any form, whether by advertisement in a newspaper or otherwise, that the Court thinks fit.

Division 4—Miscellaneous

21. Amendment of documents

- (1) On application of a party or on its own motion, the Court may order a party to amend, in the manner that the Court directs, a document filed or served by the party under this Part.
- (2) The order may be made on any term that the Court thinks just.

22. Failure to comply with this Part

Unless the Court directs otherwise, a failure by a party to comply with this Part does not render the proceeding under this Part, or anything done pursuant to the proceeding, invalid.

23. Forms

The forms contained in the Appendix may be used for the proceeding under this Part with any variations that the circumstances require.”.

8. Appendix added

At the end of the Rules—

Add

“Appendix

Forms

Form 1

(Rule 7(1)(a))

DCEO / 20.....

**IN THE DISTRICT COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
EQUAL OPPORTUNITIES ACTION NO. OF 20.....**

Between

Claimant

AND

Respondent

Notice of Claim

The Claimant applies for the remedies or reliefs set out in this claim.

A. Details of claim

- 1. The Claimant claims that:

.....
[Describe here the unlawful act/acts the Claimant is complaining of. State whether the Claimant has previously filed any complaint with the Equal Opportunities Commission for any unlawful act/acts that is/are the same or substantially the same as the unlawful act/acts that is/are the subject of this claim.]

B. Legislation

- 2. The Claimant claims that the [*act/acts] complained of [*is/are] unlawful under one or more of the following Ordinances:

- [*section/sections of] the Sex Discrimination Ordinance (Cap. 480);
- [*section/sections of] the Disability Discrimination Ordinance (Cap. 487);
- [*section/sections of] the Family Status Discrimination Ordinance (Cap. 527);
- [*section/sections of] the Race Discrimination Ordinance (Cap. 602).

[State the relevant section/sections of the Ordinance/ Ordinances if possible.]

C. Remedies or reliefs claimed

3. The Claimant asks the Court to grant one or more of the following remedies or reliefs:

a declaration that the Respondent has engaged in a conduct, or committed an act, that is unlawful under one or more of the following Ordinances:

the Sex Discrimination Ordinance (Cap. 480);

the Disability Discrimination Ordinance (Cap. 487);

the Family Status Discrimination Ordinance (Cap. 527);

the Race Discrimination Ordinance (Cap. 602),

and an order that the Respondent must not repeat or continue the conduct or act;

an order that the Respondent must perform the following reasonable act or course of conduct to redress any loss or damage suffered by the Claimant:

.....;

[e.g. an apology from the Respondent]

an order that the Respondent must employ or re-employ the Claimant;

an order that the Respondent must promote the Claimant;

an order that the Respondent must pay to the Claimant damages by way of compensation for any loss or damage suffered by reason of the Respondent's conduct or act that is unlawful under one or more of the above-mentioned Ordinances;

[If necessary, give details by way of statement of damages and give details of amount claimed and calculations (e.g. loss of income).]

- an order that the Respondent must pay to the Claimant punitive or exemplary damages;
- an order declaring void, in whole or in part, either from the beginning or from any date that may be specified in the order, any contract or agreement made in contravention of one or more of the above-mentioned Ordinances:;

[Specify here details of the relevant contract or agreement, and whether the contract or agreement is sought to be declared void in whole or in part, and if in part, which part.]
-

[Specify here any other remedy or relief that the Claimant wishes to claim and the legislative provision under which it is claimed, or any relevant question that the Claimant wishes to have determined.]

D. Claimant’s details and special requirements

- 4. The Claimant’s relationship with the Respondent is

[e.g. employee / former employee / co-employee / customer]
- 5. The Claimant is [*18 years old or above / under 18 years old].
- [*6. The Claimant’s first language is

The Claimant requires an interpreter at the hearing in

[Specify language.]

[*7. The Claimant has the following special requirements for the hearing:

[Give details of the special requirements that enable the hearing of this matter to proceed in the Court (e.g. an anonymity order, a wheelchair access, a hearing loop, sign language interpreting services, the presence of personal assistant or carer).]

[*8. Details of representative:

*[**Representative** means the person who will act for the Claimant in appearing in, conducting, defending and addressing the Court in, any proceeding in the Court in relation to this claim. He or she may be a lawyer or a person who is not a lawyer but is an eligible person under rule 6 of the District Court Equal Opportunities Rules (Cap. 336 sub. leg. G). The details required include his or her name and role (e.g. a member of the Equal Opportunities Commission, an office bearer of a registered trade union, a carer or an associate of the Claimant).]*

Date:

.....

Signed by *[Name]*

[Insert capacity: Claimant / Solicitors acting for the Claimant]

[Signed if this Notice of Claim is indorsed.]

#This claim must be verified by a statement of truth in accordance with Order 41A of the Rules of the District Court (Cap. 336 sub. leg. H).

.....

THIS CLAIM was issued by
of
Solicitors for the Claimant, whose address is

OR if the Claimant sues in person:

THIS CLAIM was issued by the Claimant who resides at
.....
and (if the Claimant does not reside within the jurisdiction) whose
address for service is

THIS CLAIM was issued against the Respondent who resides
at
.....
and (if the Respondent does not reside within the jurisdiction) whose
address for service is

* Delete words after asterisk in square brackets if inapplicable.

Please refer to Order 41A, rule 5(1) of the Rules of the District Court (Cap. 336 sub. leg. H) for the form of the statement of truth. An example is given below:

“I believe / The Claimant believes that the facts stated in this Notice of Claim are true.”

Form 2
(Rule 8(1))

DCEO / 20.....

**IN THE DISTRICT COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
EQUAL OPPORTUNITIES ACTION NO. OF 20.....**

Between

Claimant

AND

Respondent

Notice to Respondent

To of
[Name and address of the Respondent]

TAKE NOTICE that, if you wish to oppose the claim of which a copy is served on you, you must file with this Court, within 28 days after the service of this notice on you, a written response to it containing a concise statement of the extent and grounds of your opposition and serve on the Claimant a copy of the written response.

AND FURTHER TAKE NOTICE that
the day of 20..... at
[*a.m./p.m.], or so soon after that time as the claim can be heard, at
the at
has been fixed as the time and place for the hearing of the claim and
that in default of your filing with this Court within the above-
mentioned period a written response as required in this notice, or of

your appearing at the above-mentioned time and place fixed for the hearing of the claim, this Court may make an order under rule 13 or 14 of the District Court Equal Opportunities Rules (Cap. 336 sub. leg. G).

Dated this day of 20.....

.....

District Court

** Delete words after asterisk in square brackets if inapplicable.*

Form 3

(Rule 10(1)(a))

DCEO / 20.....

**IN THE DISTRICT COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
EQUAL OPPORTUNITIES ACTION NO. OF 20.....**

Between

Claimant

AND

Respondent

Notice of Response

A. Details of response

1. For the Claimant’s claim, the details of the Respondent’s response are as follows:

.....
[State here whether the Respondent admits or denies the descriptions of the alleged unlawful acts the Claimant is complaining of. For denial, the Respondent must set out in full the grounds of denial.]

B. Legislation

2.
[The Respondent must state here whether the Ordinance/ Ordinances referred to by the Claimant is/are not applicable to the Claimant’s claim.]

C. Response to the remedies or reliefs claimed by the Claimant

3.
[The Respondent must set out in full the grounds on which the remedies or reliefs are denied, or the grounds of rejecting any question to be determined.]

D. Response to the Claimant’s details and special requirements

4.
[The Respondent must respond in relation to the Claimant’s relationship with the Respondent and state the Respondent’s position in relation to the Claimant’s special requirements (if any).]

Date:

.....

Signed by *[Name]*

[Insert capacity: Respondent / Solicitors acting for the Respondent]

[Signed if this Notice of Response is indorsed.]

#This response must be verified by a statement of truth in accordance with Order 41A of the Rules of the District Court (Cap. 336 sub. leg. H).

.....

THIS RESPONSE was issued by
of
Solicitors for the Respondent, whose address is
.....
.....

OR if the Respondent is acting in person:

THIS RESPONSE was issued by the Respondent who resides at

.....

and (if the Respondent does not reside within the jurisdiction) whose address for service is

.....

Please refer to Order 41A, rule 5(1) of the Rules of the District Court (Cap. 336 sub. leg. H) for the form of the statement of truth. An example is given below:

“I believe / The Respondent believes that the facts stated in this Notice of Response are true.”.



Form 4

(Rules 9(1)(a) and 11(1)(a))

DCEO / 20.....

**IN THE DISTRICT COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
EQUAL OPPORTUNITIES ACTION NO. OF 20.....**

Between

Claimant

AND

Respondent

Notice of Request for Further Particulars

To of
[Name and address of the Claimant or Respondent, as may be appropriate]

TAKE NOTICE that you are requested to reply to me in writing to the following questions:

.....

Dated this day of 20.....

.....
.....
.....

[Signature and address of the person making the request]".

9. Transitional provisions

(1) Unless the Court orders otherwise, if, before the commencement date of these Rules, the claimant of a claim made under a relevant Ordinance has issued a writ of summons for the claim under Order 6 of the Rules of the District Court (Cap. 336 sub. leg. H), rule 4 of the pre-amended Rules continues to apply to and in relation to the claim as if rules 3, 4, 6, 7 and 8 had not been enacted.

(2) In this rule—

Court (區域法院) has the meaning given by rule 2 of the District Court Equal Opportunities Rules (Cap. 336 sub. leg. G);

pre-amended Rules (《原有規則》) means the District Court Equal Opportunities Rules (Cap. 336 sub. leg. G) that are in force immediately before the commencement date of these Rules;

relevant Ordinance (有關條例) has the meaning given by rule 2 of the District Court Equal Opportunities Rules (Cap. 336 sub. leg. G).

Made this 29th day of May 2014.

The Hon. Mr. Justice CHEUNG
Chief Judge of the High Court

H. H. Judge POON

H. H. Judge LEUNG

H. H. Judge KO

Elaine LIU

Denis BROCK

Reuden LAI

Explanatory Note

These Rules amend the District Court Equal Opportunities Rules (Cap. 336 sub. leg. G) (*principal Rules*). The objective is to introduce a simplified procedure for the District Court (*Court*) to deal with claims made under a relevant Ordinance (*relevant Ordinance*), that is, the Sex Discrimination Ordinance (Cap. 480), the Disability Discrimination Ordinance (Cap. 487), the Family Status Discrimination Ordinance (Cap. 527) or the Race Discrimination Ordinance (Cap. 602).

2. Rule 4 adds new definitions to rule 2 of the principal Rules for the simplified procedure.
3. Rule 5 adapts the reference to “Crown” to “Government” in rule 2A of the principal Rules.
4. Rule 6 replaces rule 4 of the principal Rules with a new provision—
 - (a) to clarify that, with necessary modifications, certain provisions of the Rules of the District Court (Cap. 336 sub. leg. H) (*District Court Rules*) apply to deal with any matter for which no provision is made by these Rules for the simplified procedure; and
 - (b) to empower the Court to direct that any provision of the District Court Rules applies to deal with claims made under a relevant Ordinance as if the simplified procedure had not been made by these Rules.
5. Rule 7 introduces the simplified procedure by adding a new Part 2 (*Part 2*) to the principal Rules. Part 2 contains the following provisions—

Division 1—Commencement and Forms

- (a) the new rule 7 provides that a person (*claimant*) may make a claim under a relevant Ordinance by filing with the Court a notice in the specified form;
- (b) the new rule 8 provides that the Court will inform the person sued by the claimant (*respondent*) about the claim by notice in the specified form;
- (c) the new rules 9 and 11 provide that the claimant and the respondent may request each other for further particulars by sending a notice in the specified form;
- (d) the new rule 10 provides that the respondent may oppose the claim by filing with the Court a notice in the specified form;

Division 2—Proceeding after Commencement

- (e) the new rule 12 provides that interested parties may be joined in the proceeding under Part 2;
- (f) the new rule 13 provides for the consequence if no response to the claim is filed with the Court;
- (g) the new rule 14 provides for the consequence of failing to appear in hearings;
- (h) the new rule 15 provides that the claimant may discontinue or withdraw the proceeding under Part 2;

Division 3—Service of Process

- (i) the new rule 16 provides that a party to the proceeding under Part 2 must provide the party's name and address for service for the proceeding in the first document that the party files with the Court for the proceeding;
- (j) the new rule 17 provides for the procedure to change the address for service for the proceeding under Part 2;

- (k) the new rule 18 provides for the manner of service;
- (l) the new rule 19 provides for the time at which documents served by ordinary post is taken to have been served;
- (m) the new rule 20 provides for the power of the Court to order substituted service;

Division 4—Miscellaneous

- (n) the new rule 21 provides that any document filed or served for the proceeding under Part 2 may be amended;
 - (o) the new rule 22 provides for the consequence of failing to comply with Part 2; and
 - (p) the new rule 23 provides that the specified forms may be varied according to different circumstances.
6. Rule 8 adds specified forms to the principal Rules.
7. Rule 9 provides for transitional provisions.