

L.N. 146 of 2015

**Rules of the High Court (Amendment) (No. 2) Rules
2015**

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

1. Commencement

These Rules come into operation on the day on which section 13 of the Evidence (Miscellaneous Amendments) Ordinance 2003 (23 of 2003) comes into operation.

2. Rules of the High Court amended

The Rules of the High Court (Cap. 4 sub. leg. A) are amended as set out in rules 3 to 8.

3. Order 70 heading substituted

Order 70—

Repeal the heading

Substitute

“Order 70

Obtaining Evidence for Requesting Courts”.

**4. Order 70, rule 3 amended (application by Law Officer
(International Law) in certain cases)**

(1) Order 70, rule 3(a)—

Repeal

“foreign court or tribunal”

Substitute

“requesting court”.

- (2) Order 70, rule 3(b)—

Repeal

“a court or tribunal in the foreign country”

Substitute

“the requesting court”.

5. Order 70, rule 4 amended (person to take and manner of taking examination)

- (1) Order 70, rule 4(2)—

Repeal

“Subject to rule 6 and to any special directions contained in any order made in pursuance of this Order for the examination of any witness”

Substitute

“If the examination of a witness is to be taken other than by way of a live television link by the requesting court, subject to rule 6 and to any special directions contained in any order made under this Order for the examination”.

- (2) Order 70, rule 4(2)—

Repeal

“rules 5 to 10 and 11(1) to (3)”

Substitute

“rules 5, 6, 7, 8, 9, 10 and 11(1), (2) and (3)”.

- (3) Order 70, after rule 4(2)—

Add

“(2A) If the examination of a witness is to be taken by way of a live television link by the requesting court, subject to any special directions contained in any order made under this Order for the examination, Order 39, rules 5, 6, 7, 8, 9, 10, 11(1), (2) and (3) and 14 apply with any necessary modifications.”.

(4) Order 70, rule 4(3), after “a witness”—

Add

“(other than by way of a live television link by the requesting court)”.

6. Order 70, rule 5 amended (dealing with deposition)

(1) Order 70—

Re number rule 5 as rule 5(1).

(2) Order 70, rule 5(1)(b)—

Repeal

everything after “transmission to the”

Substitute

“requesting court.”.

(3) Order 70, after rule 5(1)—

Add

“(2) Paragraph (1) does not apply if the examination was taken by way of a live television link by the requesting court.”.

7. Order 70, rule 6 amended (claim to privilege)

(1) Order 70, rule 6(1), after “witness”—

Add

“(other than a witness who is giving evidence to the requesting court by way of a live television link)”.

- (2) Order 70, rule 6(3)(c)—

Repeal

“foreign court or tribunal”

Substitute

“requesting court”.

- (3) Order 70, rule 6(3)(d)—

Repeal

“foreign court or tribunal”

Substitute

“requesting court”.

- (4) Order 70, rule 6(3)(d)—

Repeal

“that court or tribunal”

Substitute

“the requesting court”.

- (5) Order 70, rule 6(3)(d)—

Repeal

“court or tribunal’s”

Substitute

“requesting court’s”.

8. Order 70, rule 7 added

Order 70, after rule 6—

Add

“7. Minutes of examination taken by way of live television link (O. 70, r. 7)

- (1) If an order made under this Order is for the examination of a witness by way of a live television link by the requesting court, the person before whom the examination is taken must be present at the place where the witness is present during the examination and must on the conclusion of the examination—
 - (a) draw up minutes indicating—
 - (i) unless otherwise directed by the order, the identity of the witness;
 - (ii) the date on which, and the time at which, the examination is taken;
 - (iii) the place where the examination is taken; and
 - (iv) whether or not an oath or affirmation has been administered to the witness;
 - (b) certify that the minutes were drawn up by the person; and
 - (c) cause the minutes so certified to be sent to the Registrar.
- (2) The Registrar must, after receiving the minutes sent under paragraph (1)(c), cause the minutes to be sent—
 - (a) if the request was sent to the Registrar by the Chief Secretary for Administration, to the Chief Secretary for Administration; or
 - (b) if the request was sent to the Registrar by some other person in accordance with a Civil Procedure Convention, to that other person.”.

Made this 5th day of June 2015.

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

The Hon. Mr. Justice Johnson
LAM V.P.

The Hon. Mr. Justice Thomas AU

Stewart WONG, S.C.

Liza Jane CRUDEN

Nigel FRANCIS

Brian GILCHRIST

Herbert LI

LUNG Kim-wan
Registrar, High Court

Explanatory Note

These Rules amend Order 70 of the Rules of the High Court (Cap. 4 sub. leg. A) to provide for the procedure respecting the taking of evidence by way of a live television link by a court or tribunal exercising jurisdiction in a country or territory outside Hong Kong. These Rules also amend references to “foreign court or tribunal” and other similar references to “requesting court” to achieve consistency with Part VIII of the Evidence Ordinance (Cap. 8).