

LEGISLATIVE COUNCIL BRIEF

High Court Ordinance (Cap. 4)

RULES OF THE HIGH COURT (AMENDMENT) RULES 2017

INTRODUCTION

On 2 June 2017, the High Court Rules Committee¹ made the Rules of the High Court (Amendment) Rules 2017 (“the Amendment Rules”) at Annex under section 54 of the High Court Ordinance (Cap. 4) to introduce various amendments primarily to improve the court procedures.

JUSTIFICATIONS

Overall

2. After reviews, the Judiciary has put forward various amendments to the Rules of the High Court (Cap. 4A) (“RHC”) to improve the court procedures at the Court of Appeal (“CA”) and introduce some other minor changes generally to the RHC. The amendments touch upon the following three main areas –

- (a) to remove the present automatic anonymity requirement for appeals to the CA relating to disciplinary proceedings of solicitors. This is for alignment with the arrangements for other professionals;
- (b) to improve the court practice and procedures for civil appeals to the CA; and

¹ The High Court Rules Committee is constituted under section 55 of the High Court Ordinance which may make rules of court regulating and prescribing the procedure and the practice to be followed in the High Court (see also section 54(1) of the High Court Ordinance). The Committee is chaired by the Chief Judge and comprises, among others, barristers nominated by the Hong Kong Bar Association and solicitors nominated by the Law Society of Hong Kong.

- (c) to remove the expression “(HK)” in the RHC, which no longer serves its original purpose.

Detailed justifications for the proposals in each of the above areas are set out in the following paragraphs.

(A) Appeals relating to Disciplinary Proceedings of Solicitors

3. According to section 13(1) of the Legal Practitioners Ordinance (Cap. 159) (“LPO”), an appeal against any order made by a Solicitors Disciplinary Tribunal (“the Tribunal”) shall lie to the CA and the provisions of Order 59 of the RHC shall generally apply to every such appeal.

4. Section 13(4) of the LPO specifically states that the hearing of any appeal from a Tribunal decision shall be in open court unless the CA may otherwise direct. But, according to Order 106, rule 12(1) of the RHC, for an appeal against the decision of the Tribunal to the High Court, the solicitor or the solicitor’s clerk concerned (as the case may be) is not to be named in the title of the notice of the originating motion by which the appeal is brought.

5. In *A Solicitor v The Law Society of Hong Kong* [2015] 2 HKLRD 802, at paragraph 86, the CA made the following observation as to the title of the proceedings in that case –

“... By reason of Order 106 Rule 12(1), the Solicitor is not named in the title of the proceedings. However, there is no similar restriction in respect of appeals from disciplinary tribunals of the other professions like doctors, accountants, dentists. It is doubtful if the restriction is in line with the current concept of open justice and the High Court Rules Committee should review the position.”

Existing Arrangements for Earlier Stages of the Disciplinary Proceedings

6. After a review, the Judiciary notes that the non-disclosure arrangement under Order 106, rule 12(1) is not consistent with the early and final stages of the disciplinary proceedings as follows –

- (i) when the Law Society of Hong Kong (“Law Society”) brings an application to the Tribunal

According to rules 3 and 9 of the Solicitors Disciplinary Tribunal Proceedings Rules (Cap. 159C) (“Tribunal Proceedings Rules”), the solicitor’s name is disclosed in the title of disciplinary proceedings on the application to consider a complaint, the supporting affidavit and the notice. Both the solicitor’s name and the name of the firm in which the solicitor was practising at the material times are disclosed in the title of the disciplinary proceedings as shown in all its related documents; and

- (ii) when the Law Society publishes the finding and order of the Tribunal

Section 13A(1) of the LPO stipulates that the Law Society may, after the expiry of the time for appeal or the determination of appeal, publish a summary of the finding and order of a Tribunal and the name of the solicitor who was the subject of the disciplinary proceedings in any of the Law Society’s publication. In practice, the Judiciary understands that the Law Society publishes a summary of the Tribunal’s finding and order and the solicitor’s name in its monthly journal, *Hong Kong Lawyer*.

7. Moreover, pursuant to sections 5 and 12 of the LPO, the Tribunal’s statement of finding that contains the name of solicitor concerned is registered in the roll of solicitors kept by the Registrar of the High Court. The roll of solicitors is open to inspection by the public free of charge. In the event that the solicitor concerned is ordered to be suspended or struck off the roll, a note of the order made by the Tribunal will be entered on the roll of solicitors against the solicitor involved and the order is to be gazetted, bringing it to the notice of the public.

8. In short, neither the LPO nor the Tribunal Proceedings Rules contain any provision that expressly requires non-disclosure of a solicitor’s name in disciplinary proceedings. Order 106, rule 12(1) of the RHC is the only express provision that stipulates the solicitor is not to be named in the notice of the originating motion for appeal against an order made by the Tribunal.

Existing Arrangements in respect of Barristers and other Professions

9. Such a non-disclosure arrangement under Order 106, rule 12(1) is not in line with that for similar court proceedings for barristers either. Sections 34 to 39 in Part III of the LPO are related to the disciplinary proceedings against barristers. Most of the provisions relating to the Barristers Disciplinary Tribunal (“BDT”) are similar to those governing the Tribunal². But, Order 106 of the RHC is not applicable to appeals against BDT’s decisions because that Order is only applicable to proceedings relating to solicitors, not barristers. There is no anonymity of barristers in the titles of proceedings of appeals against BDT’s decisions.

10. There is no similar anonymity restriction either in respect of appeals from disciplinary tribunals of other professions such as public accountants and medical practitioners³.

Experience of the United Kingdom

11. The CA of England and Wales made the following remarks on the equivalent provision in Order 106, rule 12(1) of the Rules of the Supreme Court (“RSC”) in *R v Legal Aid Board, Ex parte Kaim Todner* [1999] QB 966 at 975H as follows –

² The main difference between the disciplinary proceedings against solicitors and barristers in the LPO is that the BDT proceedings, according to section 35B(2) of the LPO, can be open to the public upon request of the barrister whose conduct is being inquired into despite the requirement to hold the proceedings in camera.

³ The Professional Accountants Ordinance (Cap. 50) sets out under its Part V disciplinary proceedings relating to professional accountants. The Council of Hong Kong Institute of Certified Public Accountants has also issued their Disciplinary Committee Proceedings Rules (“the Proceedings Rules”) to set out procedures of disciplinary proceedings. According to section 41 of Cap. 50, an appeal against disciplinary decisions should be made to the CA. No provisions in Cap. 50 and the Proceedings Rules require non disclosure of the concerned accountant's name. There is no such requirement in the RHC either.

The Medical Registration Ordinance (Cap. 161) sets out under its Part IV inquiries, disciplinary proceedings and offences relating to medical practitioners. The Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161E) provides for, among others, the relevant investigation and disciplinary procedures. According to section 26 of Cap. 161, an appeal against disciplinary decisions should be made to the CA. No provisions in Cap. 161 and Cap. 161E require non-disclosure of the concerned medical practitioner's name. There is no such requirement in the RHC either.

“There can be no justification for singling out the legal profession for special treatment. The inference that they should be singled out should not be drawn from Ord. 106, r. 12. The Order certainly presupposes that solicitors in disciplinary appeals to the High Court should not be identified in the title to the proceedings. However this is probably a remnant from earlier times when the disciplinary proceedings were themselves in private which is no longer the position. The situation in relation to other professions, e.g. doctors and dentists appealing to the Privy Council, is that in general they are not granted any anonymity. In our view, the Rules of the Supreme Court should now be amended to bring the position of solicitors in line with that general practice.”

12. In England and Wales, Order 106 of the RSC was revoked by the *Civil Procedure (Amendment No. 4) Rules 2004* which came into force on 1 April 2005.

13. Besides, with the enactment of *The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2015* which came into operation in May 2015, the automatic anonymity for solicitors under Order 106 has also been removed in Northern Ireland. It is explained in the explanatory memorandum that the automatic anonymity given to solicitors should be removed in the interest of openness and transparency.

Proposed Changes

14. The Judiciary suggests repealing Order 106, rule 12(1) of the RHC so as to remove the automatic anonymity requirement in appeals against decisions of the Tribunal to the CA. This is to uphold the interest of open justice and make the arrangements on a par with the other professionals, particularly the barristers. The court’s present discretion to order anonymity in individual cases as the circumstances may require remains unaffected.

(B) Civil appeals to the CA

15. Order 59 of the RHC governs the practice and procedures for civil appeals to the CA. In the light of operational experience and the Judges’ observations in a number of CA’s judgments, the Judiciary has reviewed the practice and procedures for civil appeals to the CA. At this stage, the Judiciary considers that there is room to enhance the procedures

in two areas as set out below –

- (a) enhancing the court’s case management powers over the parties’ amendments to the appeal-related documents; and
- (b) empowering also the Court of First Instance (“CFI”) to consider applications for time extension relating to appeals/applications to the CA.

(i) **Amendments to appeal-related documents**

16. Broadly speaking, under the existing Order 59 as supplemented by the relevant Practice Directions, after any necessary leave from the court has been sought (including any leave for out-of-time appeals), an appellant has to/must serve a notice of appeal on any parties to the proceedings in the court below who are directly affected by the appeal. The appellant will then have to lodge the necessary documents pertinent to the appeal with the Registrar of the High Court (“the Registrar”).

17. After ensuring that the appeal documents are in order, the Registrar will cause the appeal to be set down. The appellant must then give notice of such setting down to all the parties on whom the notice of appeal was served. The respondent who, having been served with a notice of appeal, desires to contend on the appeal that the decision of the court below should be varied or should be affirmed on other grounds or to contend by way of cross-appeal that the decision of the court below was wrong must give a respondent’s notice to specify his ground(s) of contention.

18. An application may then be made to the CA to fix a date for the hearing of the appeal. Alternatively, a Judge may order to fix a date for the hearing⁴.

19. Order 59, rule 7 of the RHC governs the amendments of the notice of appeal and the respondent's notice. A party may amend the notice of appeal or respondent’s notice with leave of the CA at any time: rule 7(1)(a); or without such leave, by serving a supplementary notice on all the parties concerned not less than 3 weeks before the hearing date of the appeal: rule 7(1)(b).

⁴ The court will direct to fix the hearing date under certain circumstances, e.g. urgent appeals.

20. In other words, even a wholesale amendment of the original notice of appeal can be made without any control by the court if it is made earlier than 3 weeks before the hearing of the appeal. The same is true for amending a respondent's notice. The Judiciary considers that this is unsatisfactory and could result in abuses.

Proposed Changes

21. To strike a better balance between the need for flexibility and proper case management, the Judiciary proposes to tighten up rule 7(1)(b) by advancing the cut-off date of serving a supplementary notice to amend a notice of appeal or respondent's notice without the leave of the CA to the date when a hearing date of the appeal is fixed. Any subsequent amendments to the notice of appeal/respondent's notice will be subject to the approval of the CA because such amendments may affect the length of the appeal hearing and the preparation time needed for the hearing before the CA.

22. The opportunity is also taken to refine rule 5 to provide for a clearer framework for the fixing of the dates of hearing of civil appeals after the setting down of such appeals.

(ii) *Time Extension Applications*

23. Order 59, rule 2B governs the application for leave to appeal against interlocutory and other judgments or orders of the CFI requiring leave. It provides that an application for leave to appeal may only be made to the CFI in the first instance within 14 days from the date of the judgment or order. However, it does not provide for any power for the CFI to extend the 14-day time limit⁵. It only provides that where the CFI refuses the application for leave to appeal, a further application may be made to the CA within 14 days from the date of the refusal. In short, only the CA, but not the CFI, is currently empowered under the RHC⁶ to allow time extension for such leave applications.

24. This is more restrictive than the arrangements for the Competition Tribunal and the District Court whereby the latter may allow

⁵ Please see *Wynn Resorts (Macau) SA v Mong Henry* [2009] 5 HKC 515 at paragraphs 10-15 *per* Chu J (as she then was); *Menno Leendert Vos v Global Fair Industrial Ltd* (unrep, HCA 4200/1995, 23 April 2010) at paragraphs 5-8 *per* To J.

⁶ See Order 3, rule 5, Order 59, rules 2A(1)(b) and 15.

time extension for such leave applications⁷.

Proposed Changes

25. The Judiciary suggests aligning the arrangements for the CFI, Competition Tribunal and District Court by amending Order 59, rules 2B and 15 to confer on the CFI the power to extend the time for civil appeals/applications or for applications for leave to appeal to the CA even though the time limit for the related appeals/applications may have expired.

26. The CA should neither be burdened with applications for leave to appeal which, but for the late making of the applications, should have been dealt with by the CFI at first instance, nor with other applications for an extension of time which should as a matter of principle be first dealt with by the CFI at first instance. Also, the CA should not be deprived of the views of the CFI Judge in the first-tier application.

(C) The expression “(HK)” in the RHC

27. The RHC, which were largely modeled on the RSC in England and Wales, were enacted in 1988. For ease of reference, the English numbering system as it existed at that time was followed in the RHC. For those rules or orders that were unique to Hong Kong, they were indicated with the expression “(HK)” in the RHC.

28. In 1999, the RSC were largely replaced by the Civil Procedure Rules (“CPR”). The English CPR are considered to be an entirely new code of civil procedure. In Hong Kong, although the substantial amendments to the RHC in 2009 relating to the Civil Justice Reform were heavily influenced by the English CPR, only selected aspects of the CPR have been adopted, and in some cases in modified format.

29. It is also noted that in recent years, there has not been a consistent practice of adding such an expression to the RHC. For example, such expression was not added in some of the HK-unique provisions since 1990. Moreover, the expression has not been included in any amendments to the RHC since 1997.

30. The Judiciary therefore considers that the existing arrangement may not be the most satisfactory for statute readers or users. For

⁷ Rule 50 of the Competition Tribunal Rules (Cap. 619D) and Order 58, rule 2(10) of the Rules of the District Court (Cap. 336H) refer.

provisions without the expression “(HK)”, they were either adapted from the RSC or subsequently added to the RHC. In the former case, if the English counterparts have been repealed by the CPR in 1999, although the HK provisions originated from the RSC, arguably they have now become “HK-specific” provisions. In the latter case, it is unclear to statute users whether the provisions are “HK-specific” or not as no “(HK)” can be found.

31. Moreover, according to section 18 of the Interpretation and General Clauses Ordinance (Cap. 1), these expressions have no legal effect for interpretation of the law.

Proposed Changes

32. The Judiciary proposes to remove all of the expression “(HK)” in the RHC.

THE AMENDMENT RULES

33. The main provisions of the Amendment Rules are set out as follows –

Appeals relating to Disciplinary Proceedings of Solicitors

- (a) Rule 10 repeals the existing Order 106, rule 12(1) to remove the automatic anonymity regarding the title of the notice of originating motion by which an appeal is brought against an order that the Tribunal makes after inquiring into and investigating the conduct of a person;

Civil Appeals to the CA

- (b) Rules 3 and 7 amend Order 59, rules 2B and 15 to empower also the CFI to extend the time limit for applying for leave to appeal to the CA, even though the time limit for the related appeals/applications may have expired;
- (c) Rules 4 and 5 amend Order 59, rule 6 and add a new rule 6A to Order 59 to provide for a clearer framework for fixing the date for hearing an appeal after the appeal has been set down;
- (d) Rule 6 amends Order 59, rule 7 to enhance the court’s case

management powers over the parties' amendments to notices of appeal and respondent's notices;

The expression “(HK)” in the RHC

- (e) Rule 13 repeals all the expression “(HK)” in various provisions of the RHC; and

Others

- (f) Rules 8, 9, 11 and 12 introduce some minor textual amendments to the RHC.

LEGISLATIVE TIMETABLE

34. The legislative timetable is as follows –

Publication in the Gazette	16 June 2017
Tabling at the Legislative Council (for negative vetting)	21 June 2017
Commencement	1 December 2017

IMPLICATIONS OF THE PROPOSAL

35. The Amendment Rules are in conformity with the Basic Law, including the provisions concerning human rights and will not affect the current binding effect of the High Court Ordinance. They have no sustainability, family or gender implications. The proposals have insignificant financial or manpower implications for the Judiciary.

PUBLIC CONSULTATION

36. The Judiciary has consulted various stakeholders, including the Hong Kong Bar Association, the Law Society and the Privacy Commissioner for Personal Data, on the relevant parts of the legislative amendments. They are supportive of the relevant proposed amendments.

37. On 20 February and 15 May 2017, the Judiciary issued two information papers to the Legislative Council Panel on Administration of Justice and Legal Services (“AJLS Panel”) to cover the above proposed legislative amendments to the RHC in two batches. The AJLS Panel did not raise any comments at its meetings on 27 February and 22 May 2017 respectively.

PUBLICITY

38. A press release will be issued when the Amendment Rules are published in the Gazette and a spokesperson will be available for answering media enquiries.

ENQUIRIES

39. For enquiries on this brief, please contact Ms Wendy CHEUNG, Assistant Judiciary Administrator (Development)¹, at 2867 5201.

Judiciary Administration
14 June 2017

Rules of the High Court (Amendment) Rules 2017

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Rules of the High Court (Amendment) Rules 2017

(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 1 December 2017.

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 13.

3. Order 59, rule 2B amended (application for leave to appeal against interlocutory and other judgments or orders of Court)

Order 59, after rule 2B(5)—

Add

“(6) The Court or the Court of Appeal may extend the period for making an application for leave to appeal before or after the expiry of the period.”.

4. Order 59, rule 5 amended (setting down appeal)

Order 59, rule 5(2)—

Repeal

everything after “of appeals” and before the full stop.

5. Order 59, rule 6A added

Order 59, after rule 6—

Add

“6A. Fixing of date for hearing appeal (O. 59, r. 6A)

- (1) The Registrar may, at any time after an appeal has been set down under rule 5, direct that a date be fixed for hearing the appeal.
- (2) The Registrar may give the direction—
 - (a) either on the Registrar’s own motion or on the application of a party; and
 - (b) only if the Registrar is satisfied that the matter is ready for determination.
- (3) Despite paragraphs (1) and (2), the Court of Appeal or a single judge may at any time give a direction as to the date for hearing the appeal (including a direction to fix a date for the hearing).”.

6. Order 59, rule 7 amended (amendment of notice of appeal and respondent’s notice)

Order 59, rule 7(1)(b)—

Repeal

everything after “served”

Substitute

- (i) on each of the parties on whom the notice of appeal or respondent’s notice was served; and
- (ii) before the date on which a hearing date of the appeal is fixed in accordance with a direction referred to in rule 6A.”.

7. Order 59, rule 15 amended (extension of time)

Order 59, rule 15, after “before”—

Add

“or after”.

8. Order 71B, rule 2 amended (certified copies of judgments)

Order 71B, Chinese text, rule 2(4)(b)—

Repeal

“認收送達”

Substitute

“送達認收”.

9. Order 102, rule 14 amended (certifying lists of creditors entitled to object to reduction)

Order 102, rule 14(a)—

Repeal

“Court,”

Substitute

“Court;”.

10. Order 106, rule 12 amended (title, service, etc. of notice of motion)

(1) Order 106, rule 12, heading—

Repeal

“Title, service, etc.”

Substitute

“Service”.

(2) Order 106, rule 12—

Repeal paragraph (1).

(3) Order 106, rule 12(2)—

Repeal

“the persons to be served with such notice are”

Substitute

“the notice of the originating motion by which an appeal is brought must be served on”.

11. Order 115A, rule 1 amended (interpretation)

Order 115A, English text, rule 1(1), after ““the Ordinance””—

Add

“(條例)”.

12. Appendix A amended (forms)

(1) Appendix A, Chinese text, Form No. 42—

Repeal

“今天”

Substitute

“今天”.

(2) Appendix A, Chinese text, Form No. 44—

Repeal

“今天”

Substitute

“今天”.

13. The expression “(HK)” repealed

(1) The following provisions—

(a) Order 1, rules 2(2), 4(1) and 7A;

(b) Order 10, rule 4(2);

(c) Order 11, rules 1(4), 6(1) and 7A(1);

(d) Order 15, rule 4(3);

- (e) Order 18, rule 5A, heading;
- (f) Order 19, rule 8A, heading;
- (g) Order 25, rule 8(1);
- (h) Order 32, rules 10 and 22;
- (i) Order 35, rule 12(1);
- (j) Order 36, rule 1;
- (k) Order 37—
 - (i) rule 1(1A);
 - (ii) rule 1A, heading;
- (l) Order 38, rule 14(5), (6), (7), (8) and (9);
- (m) Order 41, rule 1(9);
- (n) Order 42, rules 4(3) and 5B(1);
- (o) Order 44A, heading;
- (p) Order 45, rules 1(1), 14(1), 15, 16 and 17(1);
- (q) Order 47—
 - (i) rule 6(1) and (5);
 - (ii) rule 7, heading;
 - (iii) rule 8, heading;
- (r) Order 49B, heading;
- (s) Order 50, rule 10(4);
- (t) Order 52—
 - (i) rule 2, heading;
 - (ii) rule 2(1), (4), (5), (6) and (7);
- (u) Order 53, rules 3(4) and 13;
- (v) Order 55—
 - (i) rule 1(2);

- (ii) rule 2, heading;
- (w) Order 58, rule 2;
- (x) Order 59, rules 6(3) and 9(1);
- (y) Order 60A, heading;
- (z) Order 62, rules 1(1), 2(1), 13(1) and 34(1);
- (za) Order 63, rule 3A, heading;
- (zb) Order 64, rule 3A(1);
- (zc) Order 67, rule 6A;
- (zd) Order 71, rule 9(3);
- (ze) Order 72, heading;
- (zf) Order 73, rules 10(1) and (6A) and 10A;
- (zg) Order 75, heading;
- (zh) Order 77, rule 4(2);
- (zi) Order 79, rule 1;
- (zj) Order 80, rule 13(3);
- (zk) Order 83A, heading;
- (zl) Order 84A, heading;
- (zm) Order 89, rule 1(1);
- (zn) Order 90, rules 4B, 8 and 10(3A);
- (zo) Order 113, rule 4(1);
- (zp) Order 114—
 - (i) heading;
 - (ii) rules 1(1) and 2;
- (zq) Order 115, rules 22(1) and 23(1);
- (zr) Order 115A, heading;
- (zs) Order 116, heading;

- (zt) Order 117, heading;
- (zu) Order 118, heading;
- (zv) Order 119, heading;
- (zw) Order 120—
 - (i) heading;
 - (ii) rules 1, 2, 3 and 4—

Repeal

“(HK)” (wherever appearing).

- (2) The following provisions—

- (a) Order 86—
 - (i) rule 8, heading;
 - (ii) rule 9, heading;
- (b) Order 117A, heading—

Repeal

“(HK)” (wherever appearing).

Made this 2nd day of June 2017.

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.

Paul T.K. LAM, S.C.

Denis BROOK

Brian GILCHRIST

Herbert LI

LUNG Kim-wan
Registrar, High Court

Explanatory Note

These Rules amend Order 59 of the Rules of the High Court (Cap. 4 sub. leg. A) (*Rules of the High Court*) to—

- (a) empower the Court of First Instance and the Court of Appeal to extend the time limit for applying for leave to appeal at any time (see rule 3);
 - (b) provide for a clearer framework for fixing the date for hearing an appeal after the appeal has been set down (see rules 4 and 5);
 - (c) amend the time and manner for serving a supplementary notice to amend a notice of appeal or respondent's notice (see rule 6); and
 - (d) provide that an application for extending or abridging the time limit mentioned in rule 15 of that Order may be made before or after the expiry of that period (see rule 7).
2. Under the existing rule 12(1) of Order 106 of the Rules of the High Court, a notice of originating motion, by which an appeal is brought against an order that the Solicitors Disciplinary Tribunal makes after inquiring into and investigating the conduct of a person, is not to name the person in the title. These Rules repeal rule 12(1) of that Order to remove the automatic anonymity, and to remove the other requirements regarding the title of the notice (see rule 10).
 3. These Rules also repeal the expression “(HK)” in various provisions of the Rules of the High Court. The expression was first included in the Rules of the High Court to indicate the provisions that were specific to Hong Kong. However, the provisions of the Rules of the High Court have been amended over the years. It has become less clear which provisions should be considered as

specific to Hong Kong. The expression “(HK)” is therefore removed to avoid confusion (see rule 13).

4. These Rules also make certain minor textual amendments (see rules 8, 9, 11 and 12).