

民事司法制度改革：過渡安排

Civil Justice Reform: Transitional Arrangements

- This leaflet is designed to provide you with a brief outline of the transitional arrangements in the High Court and the District Court for Civil Justice Reform.
- You should read the Rules of the High Court (or the Rules of the District Court, as the case may be) for full details.
- This publication is for general reference only and should not be treated as a complete or authoritative statement of law or court practice. Whilst every effort has been made to ensure that the information provided in this leaflet is accurate, it does not constitute legal or other professional advice. The Judiciary cannot be held responsible for the content of this publication.
- You may approach the Resource Centre for Unrepresented Litigants at LG1 High Court, 38 Queensway, Hong Kong for further information. However, you should note that the assistance provided at the centre is confined to procedural matters only and the staff there will not give legal advice or make any comments on the merits of your case.

Civil Justice Reform: Transitional Arrangements

1. The Civil Justice Reform has come into effect on 2nd April 2009 (“commencement date”). Arrangements are in place to facilitate smooth transition.
2. This leaflet is designed to highlight those transitional arrangements which are more likely to be encountered by litigants. The transitional arrangements outlined in this leaflet are not exhaustive and you should read the Rules of the High Court (“RHC”) and the Rules of the District Court (“RDC”) for full details of the arrangement.

Admissions in claims for payment of money

3. The new procedure for admission in claims for payment of money under RHC/RDC Order 13A (except rule 13) is applicable to the following types of cases commenced before the commencement date and pending before the court:
 - (i) for writs of summons served before the commencement date, if the plaintiff has not obtained default judgment;
 - (ii) for originating summons served before the commencement date, if the admission is filed and served before the date fixed for parties to attend court or the period fixed for the plaintiff to apply for an appointment; and
 - (iii) for any other originating process served before the commencement date, if the period specified for filing and serving an admission has not expired.

For full details, please refer to RHC/RDC Order 13A, rule 14(1).

Pleadings

4. Where the statement of claim has already been served before the commencement date, the new timing under RHC/RDC Order 18, rules 2 and 3 for service of defence, reply and defence to counterclaim does not apply. In such cases, parties should follow the practice immediately before the commencement date and serve a defence, reply or defence to counterclaim (as the case may be) as follows:

- (i) A defendant who has given notice of intention to defend should, unless the court gives leave to the contrary, serve a defence before the expiration of 14 days after the time limited for acknowledging service of the writ or after the statement of claim is served on him, whichever is the later. This does not apply to cases falling within (ii) and (iii) below.
- (ii) If a summons for summary judgment or specific performance has been served on a defendant before he serves his defence, he should serve a defence within 14 days after the order granting him leave to defend.
- (iii) Where a defendant has made an application to dispute the jurisdiction of the court and the court either makes no order on the application or dismisses the application, he should serve a defence 14 days after the final determination of the application or within such other period specified by the court.
- (iv) A plaintiff should serve a reply before the expiration of 14 days after the service on him of the defence.
- (v) A plaintiff should serve a defence to counterclaim before the expiration of 14 days after the service on him of the counterclaim.

For full details, please refer to RHC/RDC Order 18, rule 24, and the version of Order 18, rules 2 and 3 before the commencement date.

Payments into court

5. The new practice under RHC/RDC Order 22 on offers to settle and payments into court does not apply to payments into court made before the commencement date and the disposal of which is still pending, and the practice previously in force before the commencement date continues to apply.

For full details, please refer to RHC/RDC Order 22, rule 28, and the version of Order 22 before the commencement date.

Case management

6. The new practice under RHC/RDC Order 25 on case management summons and conference applies to cases commenced before the commencement date and are pending before the court with the following modification:

- (i) A summons for directions taken out by a plaintiff before the commencement date and pending before the court will be deemed a case management summons taken out under RHC Order 25, rule 1(1B)(b) (or RDC Order 25, rule 1(3)(b)).
- (ii) A summons for directions taken out by a defendant before the commencement date and pending before the court will be deemed a case management summons taken out under RHC Order 25, rule 1(4)(a) (or RDC Order 25, rule 1(5)).
- (iii) Where the pleadings are deemed to be closed but no summons for directions has been taken out before the commencement date, parties should file and serve a questionnaire in accordance with RHC/RDC Order 25, rule 1(1) within 28 days after the commencement date.

7. Additionally, for cases pending before the District Court:

- (i) Where the court has given a direction requiring the plaintiff to apply for a pre-trial review or a memorandum setting out such a direction has been filed, and the

plaintiff has not made the application, then such a direction is deemed to be a direction requiring the plaintiff to take out a case management summons under RDC Order 25, rule 1(3)(b).

- (ii) Where an application for a pre-trial review is pending before the court, then the application is deemed to be a case management summons taken out under RDC Order 25.

For full details, please refer to RHC Order 25, rule 11, and RDC Order 25, rule 13.

Statements of truth

8. The new practice under RHC/RDC Order 41A on statements of truth does not apply to a document already filed, served or exchanged before the commencement date. However, you need to comply with the new practice if you amend such document after the commencement date.

For full details, please refer to RHC/RDC Order 41A, rule 10.

Costs

9. The new taxation procedure in RHC/RDC Order 62 does not apply to bills of costs filed before the commencement date, and the procedure in force before the commencement date continues to apply.

10. For work undertaken before the commencement date:

- (i) no costs will be disallowed if such costs would have been allowed before the commencement date; and
- (ii) such costs will be taxed in accordance with the First and Second Schedule to RHC/RDC Order 62 as it was in force immediately before the commencement date.

11. The amendments to the High Court Fees Rules (Cap.4D) and the District Court Civil Procedure (Fees) Rules (Cap.336C) do not apply to appointments to tax obtained before the commencement date.

12. For full details, please refer to RHC/RDC Order 62, rules 36 and 37, the version of Order 62 before the commencement date, and the High Court Fees Rules and the District Court Civil Procedure (Fees) Rules.

Judicial review

13. The new practice under RHC Order 53 on judicial review does not apply to applications for leave to apply for judicial review or applications for judicial review pending before the court immediately before the commencement date.

Judiciary
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