

Rules of Court (Amendment) Rules 2005

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No. S 144

SUPREME COURT OF JUDICATURE ACT (CHAPTER 322)

RULES OF COURT (AMENDMENT) RULES 2005

In exercise of the powers conferred on us by section 80 of the Supreme Court of Judicature Act and all other powers enabling us under any written law, we, the Rules Committee, hereby make the following Rules:

Citation and commencement

1. These Rules may be cited as the Rules of Court (Amendment) Rules 2005 and shall come into operation on 1st April 2005.

Amendment of Order 1

2. Order 1, Rule 2(4) of the Rules of Court (R 5) (referred to in these Rules as the principal Rules) is amended by inserting, immediately after item 6, the following item:

“

| <i>Proceedings</i> | <i>Written Law</i> | <i>Applicable Provisions</i> |
|-----------------------------------------------------------------------------|----------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 7. Proceedings relating to the winding up of limited liability partnerships | Limited Liability Partnerships Act 2005 (Act 5 of 2005), s.57. | (a) Order 63A and items 71D to 71I and 75 of Appendix B; and (b) Order 96, r. 3 (2). |

”.

Amendment of Order 11

3. Order 11 of the principal Rules is amended —

- (a) by inserting, immediately after the words “arbitral award” in Rule 1(m), the words “, or any adjudication determination within the meaning of the Building and Construction Industry Security of Payment Act 2004 (Act 57 of 2004)”;
- (b) by inserting, immediately after the words “an originating process” in the 1st line of Rule 4(4), the words “served pursuant to paragraph (2)(c) or”; and
- (c) by inserting, immediately after the words “Every translation” in Rule 4(5), the words “served or”.

Amendment of Order 12

4. Order 12, Rule 7 (2) of the principal Rules is amended by deleting the word “filing” and substituting the word “serving”.

Amendment of Order 62

5. Order 62 of the principal Rules is amended —

- (a) by deleting paragraph (4) of Rule 6;

(b) by inserting, immediately after Rule 6, the following Rule:

“Time for service (O. 62, r. 6A)

6A. Where any document is served before midnight on any particular day, it shall be deemed to have been served on that day.”; and

(c) by deleting Rule 8 and substituting the following Rule:

“Effect of service after certain hours (O. 62, r. 8)

8.—(1) Where the service of any document is effected under these Rules on a working day before 4 p.m., it shall, for the purpose of computing any period of time after service of that document, be deemed to have been served on that working day, and, in any other case, on the working day next following.

(2) For the avoidance of doubt, nothing in this Rule shall be construed as prescribing the hours within which service must be effected in order to be valid.”.

Amendment of Order 63A

6. Order 63A, Rule 12 of the principal Rules is amended by inserting, immediately after paragraph (5), the following paragraph:

“(6) Order 62, Rule 8 shall apply to service effected under this Rule.”.

Amendment of Order 89B

7. Order 89B of the principal Rules is amended by inserting, immediately after Rule 20, the following Rule:

“Service of foreign process (O. 89B, r. 21)

21.—(1) The service of any process under section 38 may be accompanied by other documents that provide information for a better understanding of the process or information on the consequences of failure to comply with the process.

(2) The service of any process under section 38 may be effected —

- (a) in the case of a natural person, by leaving a copy of it with the person to be served; or
- (b) in all other cases, by leaving a copy of it with the chairman, president, secretary, treasurer, director, partner or other similar

officer thereof of the body corporate or unincorporated organisation to be served.

(3) After the service of any process under section 38 has been effected or (as the case may be) attempts to effect service of it have failed, the authorised officer or process server (as the case may be) shall make an affidavit of service or attempted service, which —

(a) describes when, where and how he did or attempted to effect service of the process; and

(b) exhibits a copy of the process received with the request for service.

(4) After the affidavit is tendered to the Registrar, the Registrar shall issue to the Attorney-General either the certificate or the statement referred to in paragraphs (5) and (6).

(5) The certificate referred to in section 38(3)(b) (i) shall be in Form 192BC.

(6) The statement referred to in section 38(3)(b) (ii) shall be in Form 192BD.”.

New Orders 95 and 96

8. The principal Rules are amended by inserting, immediately after Order 94, the following Orders:

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT ACT 2004

Interpretation (O. 95, r. 1)

1.—(1) In this Order, “Act” means the Building and Construction Industry Security of Payment Act 2004 (Act 57 of 2004) and any reference to a section shall be construed as a reference to a section in the Act.

(2) Expressions used in this Order which are used in the Act have the same meanings in this Order as in the Act.

(3) An application to which this Order applies must be made —

(a) where an action is pending, by summons in the action; and

(b) in any other case, by originating summons.

Application for enforcement of adjudication determination (O. 95, r. 2)

2.—(1) An application for leave to enforce an adjudication determination under section 27 shall be made to the Registrar by *ex parte* originating summons or summons.