

# **Rules of Court (Amendment No. 2) Rules 1999**

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**SUPREME COURT OF JUDICATURE ACT  
(CHAPTER 322)**

**RULES OF COURT (AMENDMENT NO. 2) RULES 1999**

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 other written law, we, the Rules Committee, hereby make the following Rules:

**Citation and commencement**

**1.**—(1) These Rules may be cited as the Rules of Court (Amendment No. 2) Rules 1999 and shall come into operation on 15th December 1999.

(2) Rules 6, 7, 8, 9, 10, 12 and 13 of these Rules shall apply to causes or matters commenced on or after 1st January 2000.

**Amendment of Order 3**

**2.** Order 3 of the Rules of Court (R 5) (referred to in these Rules as the principal Rules) is amended by deleting Rule 5.

**Amendment of Order 15**

**3.** Order 15, Rule 4 of the principal Rules is amended by inserting, immediately after paragraph (3), the following paragraph:

“This paragraph shall not apply to any relief claimed under section 15 of the Civil Law Act (Cap. 43).”.

**Amendment of Order 21**

**4.** Order 21, Rule 2 of the principal Rules is amended by deleting paragraph (6) and substituting the following paragraphs:

“(6) Where a year has elapsed since the last proceeding in an action, a cause or a matter, the action, cause or matter is deemed to have been discontinued.

(7) Paragraph (6) shall apply to an action, a cause or a matter, whether it commenced before, on or after 15th December 1999, but where the last proceeding in the action, cause or matter took place before 1st January 2000, the period of one year shall only begin on 1st January 2000.

(8) Where an action, a cause or a matter has been discontinued under paragraph (5) or (6), the Court may, on application, reinstate the action, cause or matter, and allow it to proceed on such terms as it thinks just.”.

### **Amendment of Order 22A**

5. Order 22A, Rule 9 of the principal Rules is amended by inserting, immediately after paragraph (4), the following paragraph:

“(5) Without prejudice to paragraphs (1), (2) and (3), where an offer to settle has been made, and notwithstanding anything in the offer to settle, the Court shall have full power to determine by whom and to what extent any costs are to be paid, and the Court may make such a determination upon the application of a party or of its own motion.”.

### **Deletion and substitution of Order 24**

6. Order 24 of the principal Rules is deleted and the following Order substituted therefor:

## **“ORDER 24**

### **DISCOVERY AND INSPECTION OF DOCUMENTS**

#### **Order for discovery (O. 24, r. 1)**

1.—(1) Subject to this Rule and Rules 2 and 7, the Court may at any time order any party to a cause or matter (whether begun by writ, originating summons or otherwise) to give discovery by making and serving on any other party a list of the documents which are or have been in his possession, custody or power, and may at the same time or subsequently also order him to make and file an affidavit verifying such a list and to serve a copy thereof on the other party.

(2) The documents which a party to a cause or matter may be ordered to discover under paragraph (1) are as follows:

- (a) the documents on which the party relies or will rely; and
- (b) the documents which could —

- (i) adversely affect his own case;
- (ii) adversely affect another party's case; or
- (iii) support another party's case.

(3) An order under this Rule may be limited to such documents or classes of documents only, or to only such of the matters in question in the cause or matter, as may be specified in the order.

#### **Order for determination of issue, etc., before discovery (O. 24, r. 2)**

**2.—**(1) Where on an application for an order under Rule 1 it appears to the Court that any issue or question in the cause or matter should be determined before any discovery of documents is made by the parties, the Court may order that that issue or question be determined first.

(2) Where in an action begun by writ an order is made under this Rule for the determination of an issue or question, Order 25, Rules 2 to 7 shall, with the omission of so much of Rule 7(1) as requires parties to serve a notice specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application on which the order was made were a summons for directions.

#### **Form of list and affidavit (O. 24, r. 3)**

**3.—**(1) A list of documents made in compliance with an order under Rule 1 must be in Form 40, and must enumerate the documents in a convenient order and as shortly as possible but describing each of them or, in the case of bundles of documents of the same nature, each bundle, sufficiently to enable it to be identified.

(2) If it is desired to claim that any documents are privileged from production, the claim must be made in the list of documents with a sufficient statement of the grounds of the privilege.

(3) An affidavit made under Rule 1(1) verifying a list of documents must be in Form 41.

#### **Defendant entitled to copy of co-defendant's list (O. 24, r. 4)**

4.—(1) A defendant who has pleaded in an action shall be entitled to have a copy of any list of documents served under Rules 1, 2 and 3 on the plaintiff by any other defendant to the action; and a plaintiff against whom a counterclaim is made in an action begun by writ shall be entitled to have a copy of any list of documents served under any of those Rules on the party making the counterclaim by any other defendant to the counterclaim.

(2) A party required under paragraph (1) to supply a copy of a list of documents must supply it free of charge on a request made by the party entitled to it.

(3) Where in an action begun by originating summons the Court makes an order under Rule 1 requiring a defendant to the action to serve a list of documents on the plaintiff, it may also order him to supply any other defendant to the action with a copy of that list.

(4) In this Rule, “list of documents” includes an affidavit verifying a list of documents.

#### **Order for discovery of particular documents (O. 24, r. 5)**

5.—(1) Subject to Rule 7, the Court may at any time, on the application of any party to a cause or matter, make an order requiring any other party to make an affidavit stating whether any document specified or described in the application or any class of document so specified or described is, or has at any time been, in his possession, custody or power, and if not then in his possession, custody or power, when he parted with it and what has become of it.

(2) An order may be made against a party under this Rule notwithstanding that the party may already have made or been required to make a list of documents or an affidavit under Rule 1.

(3) An application for an order under this Rule must be supported by an affidavit stating the belief of the deponent that the party from whom discovery is sought under this Rule has, or at some time had, in his possession, custody or power, the document, or class of document, specified or described in the application and that it falls within one of the following descriptions:

- (a) a document on which the party relies or will rely;
- (b) a document which could —
  - (i) adversely affect his own case;