

PRACTICE DIRECTION 27
CIVIL PROCEEDINGS IN THE DISTRICT COURT

The following practice directions shall apply to civil proceedings in the District Court.

1. PLEADINGS

1.1 Practice Direction 19.1 relating to pleadings applies to the pleadings filed in the District Court. "Registry" referred to in the said Practice Direction shall mean the Registry of the District Court.

1.2 All writs and originating summonses should contain a plea that the relief sought do fall within the jurisdiction of the District Court, specifying which section(s) of sections 32 to 39 of the District Court Ordinance (Cap.336) do apply to the case.

1.3 Where a writ or originating summons is filed on or before 31 August 2000 but is to be served on or after 1 September, 2000, the writ or originating summons should be amended or application for leave to amend be made as the case may be under O.20, Rules of the District Court ("RDC") before service so far as the directions to the Defendant to satisfy the claim and/or the filing of Acknowledgement of Service are concerned. For the avoidance of doubt, service of such a writ or originating summons on or after 1 September 2000 shall be in accordance with the RDC.

**2. SEALING OF WRIT OF SUMMONS, NEWSPAPER
ADVERTISEMENTS, FILING OF DOCUMENTS AND
ENDORSEMENTS ON COURT DOCUMENTS**

2.1 Practice Directions 24.1 and 24.2 relating to: (i) sealing of writ of summons, newspaper advertisements and filing of documents; and (ii) endorsements in the Chinese language to be made on court documents, apply to the civil proceedings in the District Court. "Registry" referred to in the said Practice Directions shall mean the Registry of the District Court and the reference to the Second Schedule to the District Court Civil Procedure (Forms) Rules shall be replaced by Appendix A to the Rules of the District Court.

3. RIGHT OF AUDIENCE BEFORE A JUDGE OR A MASTER OF THE DISTRICT COURT

3.1 Apart from those persons who are specified in paragraphs 3.2, 3.3 and 3.4 below, or those who have been granted leave by a judge or a master pursuant to section 15 of the District Court Ordinance, only barristers and solicitors admitted in Hong Kong may appear before a judge or a master in the District Court.

3.2 The following persons employed by or under the supervision of a person having the rights, by virtue of any ordinance, of a solicitor may appear before a judge or a master in chambers on an uncontested application or on an application listed for a three-minutes hearing:

- (a) a trainee solicitor, including a trainee solicitor on secondment to a solicitor in Hong Kong from a firm of solicitors in England and Wales;
- (b) a legal executive, who has successfully completed the Hong Kong Polytechnic University Legal Executive Course;
- (c) a holder of Associate Degree of Legal Studies or the Higher Diploma in Legal Studies from the City University of Hong Kong provided that a holder of the Associate Degree must have at least three years' legal work experience;
- (d) a holder of Diploma in Legal Studies from the School of Professional and Continuing Education of the University of Hong Kong provided that he must have at least three years' legal work experience;
- (e) a member of the English Institute of Legal Executives.

3.3 In addition to those persons mentioned in paragraph 3.2 above, the following may appear before a master in the District Court on the taxation of a bill of costs:

- (a) a costs clerk employed by or under the supervision of a person having the rights, by virtue of any ordinance, of a solicitor; and
- (b) a law costs draftsman, approved as such by the Law Society, who may appear on behalf of a solicitor.

3.4 Trainee solicitors, during the last six months of their trainee solicitor contract, may appear for a plaintiff or a defendant before a judge or a master in chambers on:

- (a) applications for judgment pursuant to O. 14, RDC, where the hearing is listed for not longer than 15 minutes; and
- (b) applications pursuant to O. 88, RDC, where the hearing is listed for not longer than 15 minutes.

4. PROCEEDINGS BEFORE MASTERS IN THE DISTRICT COURT

PART I – INTERLOCUTORY APPLICATIONS

4.1 Except for those applications which have to be dealt with by a judge, all interlocutory applications should be made by summons returnable before a master.

PART II – MATTERS TO BE SET DOWN BY A MASTER

4.2 All matters to be listed for longer than 30 minutes, and where a special list does not already exist, are to be brought first on the Chambers List (i.e. applications listed for not more than 3 minutes) or to the Practice Master, for an estimate to be fixed for the length of hearing and for any other necessary directions. The Listing Officer of the District Court will then list the matter only in accordance with the directions and estimate given by the master. For applications involving serious disputes, the master will usually adjourn the applications to be heard by a judge. Practitioners are reminded that, under O. 32 r. 17, RDC, no appeal shall lie from an order of a master to refer an application to be heard by a judge.

PART III – HEARINGS BEFORE A MASTER IN OPEN COURT

4.3 In addition to the making of an order for imprisonment of a judgment debtor under O. 49B r. 1B(1), RDC, the following matters, if they are heard by a master, shall be in open court:

- (a) trial pursuant to O. 14 r. 6(2), RDC;
- (b) trial pursuant to O. 17 r. 11, RDC;

- (c) trial pursuant to O. 36 r. 1, RDC;
- (d) assessments of damages pursuant to O. 37 r. 1, RDC; and
- (e) examinations under O. 48 and O. 49B, RDC.

4.4 Counsel and solicitors appearing before a master in open court shall be appropriately robed.

5. PREPARATION OF SUMMONS FOR HEARING

5.1 For all contested interlocutory summonses, and appeals to a judge in chambers, listed for more than 2 hours before a judge or a master, except time summonses or cases when an agreed order is sought, the following directions must be complied with –

- (i) At least 48 hours before the hearing the applicant or appellant shall serve on the other parties, and the court, a short succinct skeleton specifying-
 - (a) the order sought;
 - (b) the grounds upon which the order is sought;
 - (c) the evidence relied upon with paragraph and page references where appropriate;
 - (d) the relevant rules of the District Court; and
 - (e) the authorities to be cited with reference to passages relied upon. Copies of unreported cases must be annexed (photocopies of reported cases may be annexed).
- (ii) At least 24 hours before the hearing, the respondent to the summons shall serve on the other party, and the court, a short succinct skeleton containing the following information –
 - (a) which part of the order or part thereof is opposed and the grounds of opposition;

- (b) which part of the evidence is relied upon if different to the references in the applicant's skeleton;
 - (c) whether any other rules of the District Court are to be referred to or relied upon;
 - (d) which additional cases, if any, are being referred to with details of the actual passages relied upon. Copies of any unreported cases should be attached to this document (photocopies of reported cases may also be attached to this document); and
 - (e) if any order different from that being sought by the other party is being put forward then it should be so stated in full with reasons why it is more appropriate than the order being sought including any authorities relied upon.
- (iii) The following steps must be taken not less than 48 hours before the hearing –
- (a) each party should inform the judge's or master's clerk in writing, the affidavits and exhibits which are proposed to be used;
 - (b) the party should lodge with the judge's or master's clerk –
 - (1) a bundle containing copies of only the court documents (pleadings, affidavits, etc.) in chronological sequence relevant to the particular application or appeal;
 - (2) a bundle containing relevant *inter partes* correspondence relating to the particular application or appeal;
 - (3) a chronology of events, if any, relevant to the application and, where a number of persons may be named at the hearing, a *dramatis personae* of the relevant people.

5.2 The bundles of documents, chronology of events and *dramatis personae* should be agreed between the parties and prepared jointly, but if this is not possible, it shall be the duty of the applicant or appellant to prepare the same.

5.3 Those not observing or complying with these directions may be called upon to explain such failure and, in the absence of a satisfactory explanation, may

be penalised in costs irrespective of whether or not they are the parties who succeed on the application.

6. SUBMISSION OF AUTHORITIES

6.1 This direction applies to matters to be heard before a judge or a master of the District Court.

6.2 As early as possible before the hearing and, in any event not later than 12 noon on the day before the hearing, every party or his solicitor must lodge with the clerk of the judge or the master concerned and the other party or his solicitor a list of authorities it is intended to cite.

6.3 Practitioners must follow Practice Direction 5.5 (Submission of Authorities) in preparing and submitting the list of authorities.

7. DIRECTIONS HEARING , PRE-TRIAL REVIEW, LISTING AND TRIAL

PART I – PRE-TRIAL REVIEW AND LISTING

7.1 A judge of the District Court has been appointed the Listing Judge. He will be in charge of the listing of trials of civil matters in the District Court.

7.2 A master of the District Court has been appointed the Listing Master. He will perform such duties as shall be assigned to him by the Listing Judge.

7.3 The powers of the Listing Judge or Listing Master shall, when necessary, be exercised respectively by another judge or master.

7.4 Applications for pre-trial review under O. 34, RDC shall be made by Notice of Application in the form annexed hereto as Appendix A to the Listing Judge. The Notice in Response shall be in the form annexed hereto as Appendix B.

7.5 Where an oral hearing for pre-trial review has been ordered either on the court's own motion or upon the request of the parties under O.34 r. 6(1), RDC, save for unrepresented parties, appearance before the Listing Judge should be by barristers or solicitors, and in the latter case it should be the handling solicitor; if he be unavailable, the solicitor appearing shall be familiar with the case.

7.6 Practitioners are reminded that the provisions of O. 34 r. 3, RDC, must be complied with at the time of application for pre-trial review. The parties shall complete and file with the court and serve on the other parties a checklist in the form annexed hereto as Appendix C together with the Notice of Application and Notice in Response. Unless the Notice of Application and Notice in Response do comply with O. 34, r. 3(2), and the bundle stipulated by O. 34 r. 3(4) has been lodged with the court, the court may not grant leave for the action to be set down or fix a date for trial.

7.7 To comply with the obligation under O. 34 r. 3(4), RDC, the applicant for pre-trial review should, when filing the notice of application, lodge in the Registry a bundle consisting of one copy each of the following documents:

- (a) the writ;
- (b) the pleadings (including any affidavits ordered to stand as pleadings and statement of the issues in dispute under O. 18 r. 22, RDC), any request or order for particulars and the particulars given;
- (c) all orders made on the summons for directions or memorandum of agreed directions under O. 23A r. 4, RDC;
- (d) any other relevant orders;
- (e) the requisite legal aid documents (meaning the documents which are required to be filed in the Registry under the Legal Aid Ordinance and the regulations made thereunder), if any;
- (f) all witness statements served under the provisions of O. 38 r. 2A, RDC;
- (g) all experts' reports served under the provisions of Part IV of O. 38, RDC; and
- (h) all material correspondence between the parties relevant to the application for pre-trial review.

7.8 The said bundle must be bound up in the proper chronological order, save that voluntary particulars of any pleading and particulars to which O. 18 r. 12(7), RDC applies shall be placed immediately after the pleading to which they relate.

7.9 The said bundles of documents lodged shall be released to the parties lodging the same after the Pre-trial Review, or in the event the Pre-trial Review being adjourned, after the adjourned hearing. The solicitors for the respective parties are required to collect their bundles immediately after the hearing.

PART II – ARRANGEMENT FOR UNREPRESENTED PARTIES

7.10 Where in an action begun by writ one or more of the parties is unrepresented, the Listing Judge or Listing Master will, after the close of pleadings or at any stage as may be necessary, hold a direction hearing under O.23A, r.6 , RDC and give any necessary directions.

7.11 Upon the directions hearing, if it appears to the judge or master that the issues in dispute are not sufficiently defined, the judge or master may direct the parties to prepare a statement of the issues in dispute, or if the parties are unable to agree the statement, may settle the statement itself under O.18, r.22, RDC.

7.12 Upon an application for pre-trial review under O.34, RDC, the Listing Judge or Listing Master will hold an oral hearing where one or more of the parties is unrepresented.

7.13 The purpose of this special arrangement for unrepresented parties is to enable the court to understand the issues involved in the dispute and to frame the issues if necessary. Further the court can also make use of these hearings to explain to unrepresented parties the terms of the orders or directions to be made and the steps that they have to take before the case can be fixed for trial.

PART III – FIXING OF HEARING DATES

7.14 In the pre-trial review, if the Listing Judge or Listing Master is satisfied that the action is ready for trial, he may fix a date or grant leave for a date to be fixed for trial. In the latter case, the Listing Officer of the District Court will inform the parties to attend the Court for fixing a date. During such attendance, if the Listing Officer considers it necessary, such as in the event that the parties cannot agree on the date for trial, or the mutually agreed date is very much later than the first available date offered by the court, the Listing Officer may refer the matter to the Listing Judge or Listing Master.

7.15 An order that a date be fixed in consultation with counsel instructed or expected to be instructed for the hearing of any action does not bind the Listing Master or the Listing Judge or the Listing Officer to secure the agreement of such counsel. It requires him only to give effect to their wishes so far as may be convenient to the court diaries, which shall have priority.

7.16 It should be noted that the fixing of dates, either by the Listing Judge or the Listing Master, is an administrative function exercised under the direction of the Chief Justice in terms of the power pursuant to s.12 of the District Court Ordinance. It is not a judicial function exercised in accordance with the Rules of the District Court and accordingly the appeal procedure provided by those Rules are not applicable.

PART IV – DOCUMENTS FOR USE AT TRIAL

7.17 In cases for trial where the parties will seek to place documents before the trial judge, the parties shall lodge with the Court bundles of documents at least 3 clear working days before the date fixed for the hearing. Bundles of documents should be prepared and submitted in accordance with the provisions contained in Practice Direction 5.6 (Documents for use at trial).

8. PERSONAL INJURIES CASES

8.1 The Personal Injuries List Practice Directions of the High Court together with any amendments for the time being in force shall apply mutatis mutandis to the personal injuries cases in the District Court.

9. ORIGINATING SUMMONSES SET DOWN FOR HEARING IN THE DISTRICT COURT

9.1 Save that the first hearing of originating summons will not necessarily be fixed for hearing on Tuesday mornings, Practice Direction 5.8 relating to originating summonses set down for hearing by judges applies to originating summonses to be heard in the District Court.

10. AFFIDAVIT EVIDENCE AND CHINESE TRANSLATIONS

10.1 Practice Directions 10.1 and 10.2 relating to affidavit evidence and Chinese translations apply to all the civil proceedings in the District Court. “Registry” referred to in the said Practice Directions shall mean the Registry of the District Court.

11. EX PARTE, INTERIM AND INTERLOCUTORY APPLICATIONS FOR INJUNCTIONS

11.1 Practice Directions 11.1 and 11.2 relating to ex parte, interim and interlocutory applications for injunctions, Mareva injunctions and Anton Piller Orders apply to such kind of proceedings in the District Court. The function of the Clerk of Court will be discharged by the Listing Officer in the District Court.

12. WARRANTS OF ARREST OF JUDGMENT DEBTORS

12.1 Practice Direction 12.1 relating to warrants of arrest of judgment debtors applies to the warrants of arrest issued under O. 49B, RDC.

13. TAXATION PROCEEDINGS IN THE DISTRICT COURT

13.1 Practice Direction 14.3 relating to taxation proceedings in the High Court applies to such kind of proceedings in the District Court.

14. JUDGMENT, EXECUTION OF JUDGMENT AND PEREMPTORY ORDERS

14.1 Practice Directions 16.1 to 16.5 relating to: (i) settling draft orders and judgments; (ii) judgments expressed in foreign currency; (iii) interest on judgment; (iv) execution to enforce judgment for possession of immovable property; and (v) peremptory orders, do apply to civil proceedings in the District Court.

15. MISCELLANEOUS PROVISIONS

15.1 For the avoidance of doubt, Practice Directions 5.3 (Listing and Hearing

of Summons for Interlocutory Orders and Injunctions), 5.7 (Long Cases) and 7.1 (Action by Writ – Running and Fixture Lists) do not apply to the proceedings in the District Court.

15.2 Practitioners are reminded that Practice Directions 5.9 (Pleadings for use at trial in the District Court) and 5.10 (Right of audience before a District Judge) are repealed.

15.3 This Practice Direction supersedes the previous Practice Direction appearing at 27.

Dated this 16th day of *December*, 2002.

Andrew Li

Andrew Li
Chief Justice

**IN THE DISTRICT COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
CIVIL ACTION NO. _____ OF 20__**

BETWEEN

Plaintiff

And

Defendant

NOTICE OF APPLICATION FOR PRE-TRIAL REVIEW

TAKE NOTICE that the _____ Plaintiff/ _____ Defendant do hereby apply for a pre-trial review pursuant to Order 34, rule 3, Rules of the District Court [and to the Order of Master _____ made on the _____ day of _____ 20____]. A checklist appended hereto is filed and to be served with this Notice.

You are required to file in the Registry, within 14 days after service of this Notice of Application on you, a Notice in Response with a checklist and serve it on all the other parties within 2 days after filing.

If you fail to serve a Notice of Response within the period stated in paragraph 2 above, the _____ Plaintiff/ _____ Defendant may apply to the Court to [strike out the defence / dismiss the action.] On the hearing of any such application, the Court may order [the defence to be struck out and judgment to be entered accordingly/ the action to be dismissed] or may make such other order as it thinks just.

Within 7 days after the filing of a Notice in Response (or, if there is more than one notice in response, the date of the filing of the Notice in Response last filed) you may, by written notice to the Registrar and all the other parties request an oral hearing. Where a pre-trial review is conducted without an oral hearing, you may, within 7 days after the expiry of the period of notice referred to in this paragraph, make representations in writing to the Court.

Dated this _____ day of _____ 20 _____.

This Notice of Application was taken out by _____,
solicitors for the _____ Plaintiff/ _____ Defendant.

Signed _____
Plaintiff/Defendant/Solicitors
for the Plaintiff/Defendant

DCCJ _____ of 20 ____

**IN THE DISTRICT COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
CIVIL ACTION NO. _____ OF 20 ____**

BETWEEN

Plaintiff

And

Defendant

NOTICE IN RESPONSE FOR PRE-TRIAL REVIEW

TAKE NOTICE that the _____ Defendant/ _____ Plaintiff do hereby file this Notice in Response pursuant to Order 34, rule 4, Rules of the District Court [or such further time as may be agreed between all the parties/allowed pursuant to the Order of Master _____ on the _____ day of _____ 20 ____]. A checklist appended hereto is filed and to be served with this Notice.

Dated this _____ day of _____ 20 ____.

This Notice in Response was taken out by _____,
solicitors for the _____ Defendant/ _____ Plaintiff.

Signed _____
Defendant/Plaintiff/Solicitors
for the Defendant/Plaintiff

CHECKLIST FOR THE _____ PLAINTIFF/ _____ DEFENDANT

(tick appropriate box)

1. Has discovery been completed? Yes No
2. Has inspection taken place? Yes No
3. Are you satisfied no further discovery is required? Yes No
4. Is there any outstanding request for further and better particulars to be made, or, to be answered? Yes No
Yes No
5. Have all interrogatories ordered been answered? Yes No
6. Are you satisfied the pleadings will require no further amendment? Yes No
7. Have all notices of proposal to adduce hearsay evidence been served? N/A Yes No
Will any other party seek leave from the Court to call as witness whose statement is included in the above notice? N/A Yes No
8. Will there be expert evidence at trial? N/A Yes No
How many experts will be called at trial? No.
9. How many witnesses will be called on the factual issues? No.

In what language/dialect will each of the witnesses speak? English
Chinese
(Specify dialect if other than punti) _____
Others (specify) _____
10. Have all witness statements been filed and served? N/A Yes No
11. If there has been no order for exchange of witness statements, was there any good reason therefor?

12. Whether all the directions or orders which have been made or have taken effect in the action have been fully complied with? Yes No
If not, which of them have not been complied with and in what respects have there been non-compliance.
13. Is there any outstanding appeal in interlocutory or any other matter? Yes No
14. Are you satisfied there is no need to deal with any further interlocutory matter? Yes No
15. We request an oral hearing of the Pre-trial Review and intend to make the following interlocutory applications or seek the following directions at the Pre-trial Review. Yes No
[State nature of applications or directions sought.]
16. The Pre-trial Review hearing will be attended by counsel /solicitor.
17. Are there any other matters material for the Pre-Trial Review? Yes No
[Set out the matters.]
18. Is it appropriate in all the circumstances to fix a date for trial. Yes No
[If no, specify why not.]

19. What is the agreed estimate of length of trial?

Days

If there is no agreement, state your own estimate.

Days

20. The language of the trial preferred is _____

I, _____, Solicitor for the _____ Plaintiff/ _____ Defendant,
having the conduct of this case declare that the above are true and accurate to the best
of my information and belief.

Signed _____

(Plaintiff/Defendant/Solicitor for the Plaintiff/Defendant)

Date _____

To: Messrs.