

Amendment of pleadings

Any document filed with the Registrar may, at the discretion of the Registrar be amended on such terms as the Registrar may direct (rule 92).

In exercising his discretion as to whether to allow the amendment, the Registrar will be guided by the provisions of O20 r8 of the Rules of the High Court and the cases decided thereunder.

Matters which should be taken into account are :

- Why is the amendment needed?
- What is the nature of the amendment?
- At what stage in the proceedings is the amendment requested? This could have implications on the evidence already submitted by the other party.
- Should the amendment have been apparent earlier?
- Is it a vexatious request, e.g. an attempt to delay the proceedings?
- Is the amendment in the public interest, e.g. will the real matters in contention between the parties be taken before the tribunal and further proceedings avoided?
- Will the other party be disadvantaged?

- What are the cost implications?

If a party wishes to amend his pleadings, he should file a draft of the amended pleadings clearly showing the deletions and additions to the original. A copy should be sent at the same time to the other party. The Registrar will, as far as practicable, allow the other party ~~14 days in which an opportunity~~ to consent to or comment on the amendment. The comments must be copied to the party seeking the amendment.

If the other party has indicated he consents to the amendment, the amendment will generally be allowed by the Registrar. If no consent has been received and the amendment is of a minor nature, i.e. correction of a typographical or clerical error, the amendment will generally be allowed.

If no consent or comment has been received from the other party and the amendment is of a more substantial nature, the Registrar will assume that he has no objection.

The Registrar will issue his provisional determination after considering the submissions. Either party will have the right to request an interlocutory hearing under section 70 and rule 74.

If the draft filed is ultimately accepted without amendment, service of the amended pleadings may be dispensed with. If the other party has already filed his pleadings, he will usually be allowed 21 days from the date of the final direction within which he may file and serve amended pleadings if he wishes.

If amendment is granted after a hearing, the party seeking the amendment will generally be entitled to the costs of the hearing, and the other party will generally be entitled to the costs of and occasioned by the amendment. See *Lessy SARL v Pacific Star Development Ltd* [1996] 2 HKC 326.

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