

# LANDS TRIBUNAL (AMENDMENT) RULES 2008

## LANDS TRIBUNAL RULES (Cap. 17A)

### Remarks

#### 14. Listing for hearing

- (1) In relation to an application (other than an application for an order for possession of any premises) – (L.N. 281 of 2006)
- (a) where a notice of opposition has been filed, or the time limited for filing has elapsed and no notice of opposition has been filed, any party to the application, on giving notice to all other parties, may apply to the Registrar in accordance with Form 31 to list the application for hearing;
  - (b) at the expiration of not less than 3 days after the receipt of the application to list for hearing, the Registrar shall, subject to any order of the Tribunal, list the application for hearing and shall give notice to all parties, which shall be not less than 14 clear days, or such other period as may be agreed by the parties;
  - (c) the Registrar may refer any application to list for hearing to the Tribunal, which may make such order as it thinks fit; and
  - (d) any party may, at any time before the application has been listed for hearing, make representations to the Registrar with regard to the listing. (L.N. 281 of 2006)
- (1A) In relation to an application for an order for possession of any premises –
- (a) where a notice of opposition has been filed, the Registrar shall as soon as practicable list the application for hearing and give notice to all parties, which shall be not less than 14 clear days, or such other period as may be agreed by the parties; and
  - (b) any party to the application may, at any time before the application has been listed for hearing, make representations to the Registrar with regard to the listing. (L.N. 281 of 2006)
- (2) Where any party has failed, in the opinion of the Tribunal, to pursue any proceedings with due diligence, or has failed to comply with any rule or a requisition under rule 13 the Tribunal may, after giving the parties an opportunity to be heard, order that the proceedings be heard by the Tribunal or give such other direction as it may think fit for the purpose of expediting or disposing of the proceedings.  
(Enacted 1994)

**(3) Subrule (2) is in addition to and does not derogate from any power of the Tribunal conferred by any enactment or rule of law.**

Rule 2

#### 30. Clerical mistakes and slips

Clerical mistakes in decisions or determinations, and errors arising therein from any accidental slip or omission may at any time be corrected by the Tribunal.

**30A. Appeals from registrar to presiding officer**

**(1) An appeal to a presiding officer from a judgment, order or decision of the registrar may be made, irrespective of whether the judgment, order or decision was given or made on the basis of written submissions only or after hearing.**

**(2) The appeal must be brought by serving on every other party to the proceedings in which the judgment, order or decision was given or made a notice in the form specified by the Tribunal, requiring the party on whom the notice is served to attend before the presiding officer on a day specified in the notice or on such other day as may be directed.**

**(3) Unless the Tribunal otherwise orders, the notice –**  
**(a) must be filed with the registrar within 14 days after the judgment, order or decision appealed against was given or made; and**  
**(b) must be served within 5 days after filing.**

**(4) An appeal to which this rule applies must not be heard sooner than 2 clear days after the service under subrule (3)(b).**

**(5) Except so far as the Tribunal may otherwise direct, an appeal under this rule does not operate as a stay of the proceedings in which the appeal is brought.**

**(6) No further evidence (other than evidence as to matters which have occurred after the date on which the judgment, order or decision was given or made) may be received on the hearing of an appeal under this rule except on special grounds.**

**(7) In subrule (1), “registrar” (司法常務官) includes a deputy registrar or assistant registrar of the Tribunal.**

**30B. Application for leave to appeal**

**(1) An application for leave to appeal against a judgment, order or decision of the Tribunal must be made to the Tribunal first before the application may be made to the Court of Appeal.**

**(2) The application to the Tribunal must be made within –**  
**(a) in the case of an appeal against a judgment, order or decision other than an interlocutory judgment, order or decision, 28 days from the date of the judgment, order or decision;**  
**(b) in the case of an appeal against an interlocutory judgment, order or decision, 14 days from the date of the interlocutory judgment, order or decision.**

(3) So far as is practicable, the application must be made to the member or members of the Tribunal against whose judgment, order or decision leave to appeal is sought.

(4) Where the Tribunal refuses the application, a further application for leave to appeal may be made to the Court of Appeal within 14 days from the date of refusal.

(5) An application under this rule must be made inter partes if the proceedings to which the judgment, order or decision relates are inter partes.

30C. Service of notice of appeal

Rule 3

(1) Subject to subrule (2), where leave to appeal is granted by the Tribunal or the Court of Appeal, Order 60A of the Rules of the High Court (Cap. 4 sub. leg. A) applies to the appeal.

(2) Notwithstanding Order 60A, rule 3 of the Rules of the High Court (Cap. 4 sub. leg. A), a notice of appeal within the meaning of that Order must be served on –

- (a) the Tribunal; and
  - (b) all other parties to the proceedings before the Tribunal,
- within 7 days from the date on which leave to appeal is granted.

30D. Extension of time for appeal or application for leave to appeal

Rule 3

The Tribunal or the Court of Appeal may, at any time, and notwithstanding that the time for an appeal or an application for leave to appeal may have already expired, extend the time for the appeal or for applying for leave to appeal.

30E. Non-interlocutory judgments and orders

Rule 3

(1) For the purposes of rule 30B(2), the following judgments and orders are not interlocutory –

- (a) a judgment or order determining in a summary way the substantive rights of a party to an action;
- (b) an order made under section 12(3) of the Ordinance disallowing, or requiring a legal representative to meet, the whole or any part of any wasted costs;
- (c) an order prohibiting a debtor from leaving Hong Kong;
- (d) an order for the imprisonment of a judgment debtor; and
- (e) an order of committal for contempt of court.

(2) Without affecting the generality of subrule (1)(a), the following are judgments and orders determining in a summary way the substantive rights of

a party –

- (a) an order striking out –
  - (i) an application or other proceedings;
  - (ii) a notice of application or a notice of opposition; or
  - (iii) any part of the application, proceedings or notice;
- (b) a judgment or order determining any question of law or construction of any document without a full trial of the action;
- (c) a judgment or order dismissing any cause or matter upon determination of a question of law or construction of any document without a full trial of the action;
- (d) a judgment or order on any preliminary issue;
- (e) an order dismissing or striking out an application or other proceedings for want of prosecution;
- (f) a judgment obtained pursuant to an “unless” order;
- (g) an order refusing to set aside a judgment in default;
- (h) an order refusing to allow –
  - (i) an amendment of a notice of application;
  - (ii) a notice of opposition to introduce a new claim or defence; or
  - (iii) any other new issue; and
- (i) a judgment or order on admissions of fact or of part of a case.

(3) A direction as to whether a judgment or order is one that is referred to in subrule (1)(a) may be sought from the member or members of the Tribunal who made or will make the judgment or order.

(4) A reference to an order specified in subrule (1)(b), (c), (d) and (e) includes an order refusing, varying or discharging the order.