

PART VIII: JUDGMENTS AND ORDERS

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PART VIII

JUDGMENTS AND ORDERS

64. Draft orders

Draft orders for inter partes applications

- (1) Order 42, Rule 8(1) and (2) of the Rules of Court place the burden of approving the drafts of *inter partes* judgments and orders on the solicitors themselves. The solicitors should therefore approve the drafts and not submit these drafts to the Registrar for approval.
- (2) Parties should proceed to engross a final copy of the draft judgment for signature by the Registrar *after* agreeing on the draft. The Registrar's signature is only for the purpose of validity and does not in any way affect the regularity or irregularity of the contents of any judgment or order.
- (3) Order 42, Rule 8(3), (4) and (5) shall continue to apply:
 - (3) In any case where the solicitors concerned are unable to agree upon the draft, any one of them may obtain an appointment before the Registrar, of which notice shall be given to the other, to settle the terms of the judgment or order.
 - (4) Every judgment or order shall be settled by the Registrar, but in the case of a judgment or order made by a Judge, any party may require the matter in dispute to be referred to the Judge for his determination.
 - (5) Where the other party has no solicitor, the draft shall be submitted to the Registrar.

SUPREME COURT PRACTICE DIRECTIONS (2007 ED.)

Draft orders for ex parte applications

- (4) Draft orders of Court for *ex parte* applications (except probate matters) may be submitted with the summons and the supporting affidavit when these are filed.

- (5) The draft order of Court, when approved, will be returned by electronic transmission to the In-Tray of the law firm's computer system or to the Service Bureau.

65. Judgment in default of appearance

- (1) The present practice of applying for a search for appearance and obtaining a certificate of non-appearance before judgment in default of appearance is entered will continue.
- (2) The application for search for appearance and the certificate of non-appearance must be filed using the Electronic Filing Service.
- (3) After the search has been carried out, the Court will reply to the filing party with the result of the search annotated on the certificate.
- (4) When judgment in default of appearance is later sought, a copy of the certificate endorsed by the Court should be included as an exhibit to the affidavit of service. If no such affidavit is required to be filed in a particular case, a copy of the certificate should be attached to a letter, which should be sent into Court together with the other documents required to obtain judgment in default of appearance.

66. Judgment Interest

Interest rates in default judgments

- (1) The directions set out in sub-paragraphs (2) to (3) shall be observed when entering judgments in default of appearance or defence under Orders 13 and 19 respectively of the Rules of Court. These directions shall apply to such default judgments entered on or after 1 April 2007. (In respect of post-judgment interest for such default judgments under Order 42, Rule 12, please refer to sub-paragraph (4) below).

NON-CONTRACTUAL INTEREST

- (2) For non-contractual interest:
- (a) Pursuant to the Chief Justice's directions as provided for under Order 13, Rule 1(2) and Order 19, Rule 2(2), the rate of interest shall be 5.33% per annum until further notice.
 - (b) The period of interest shall be from the date of the writ to the date of the judgment.
 - (c) The total amount of interest payable need not be specified.

CONTRACTUAL INTEREST

- (3) For contractual interest:
- (a) For fixed or constant rate:
 - (i) The rate of interest provided for shall be specified.
 - (ii) The period of interest shall be as pleaded, except that it shall end on the date of judgment and not on the date of payment.
 - (iii) The total amount of interest payable need not be specified.
 - (b) For fluctuating rate:
 - (i) There shall be an appendix attached to the judgment in the following form:

| “Rate of of interest | Principle sum | interest | Period of interest | Amount |
|-------------------------------------|--------------------------|-----------------|-------------------------------|---------------|
| _____ % | \$ _____ | From _____ | | |
| \$ _____ | | | | |
| p.a. | | to _____ | | |

Total amount of interest payable
to date of judgment = \$ _____.”

- (ii) The period of interest shall be as pleaded, except that it shall end on the date of judgment and not on the date of payment.
 - (iii) The total amount of interest payable shall be specified in the judgment.
- (c) Evidence of the agreement as to the rate of interest shall be attached to the judgment.

Post-judgment interest

- (4) The directions set out in sub-paragraph (5) shall apply to judgments granted on or after 1 April 2007. The directions set out in sub-paragraph (5) shall also apply to judgments entered in default of appearance or defence under Orders 13 and 19 or in default of an order of Court (i.e. “unless” or peremptory orders) on or after 1 April 2007. For the avoidance of doubt, judgments granted on the said default judgments entered prior to 1 April 2007 will carry post-judgment interest at the rate of 6% per annum (or such lower rate as the Court has directed, or an agreed rate) for the entire period of accrual of interest.
- (5) Pursuant to the Chief Justice’s directions as provided for under Order 42, Rule 12, unless it has been otherwise agreed between the parties, interest payable after the date of judgment shall be 5.33% per annum until further notice and calculated to the date of the judgment is satisfied. The Court

retains the discretion under Order 42, Rule 12 to revise the default rate of interest to such other rate not exceeding the default rate on the facts of the individual case.

Interest on costs

- (6) The directions set out in sub-paragraph (7) shall apply to costs where the commencement date under Order 59, Rule 37 is on or after 1 April 2007. For the avoidance of doubt, costs with commencement dates which are prior to 1 April 2007 will carry the default interest rate of 6% per annum for the entire period of accrual of interest.
- (7) Pursuant to the Chief Justice's directions as provided for under Order 59, Rule 37(1), interest payable from the relevant date(s) as stipulated in Order 59, Rule 37(1) shall be 5.33% per annum until further notice and calculated to the date of payment.

Pre-judgment interest

- (8) The directions set out in sub-paragraph (9) shall apply to awards of interest for the period prior to judgment, such order being made on or after 1 April 2007.
- (9) The Chief Justice has directed that solicitors may wish to submit to the Court to consider that the interest rate for the period prior to the date of judgment should be the default interest rate of 5.33% per annum. Solicitors should note that the Court retains the overriding discretion to depart from the default interest rate based on the facts of the individual case.

Interest under Order 30, Rule 6(2)

- (10) The directions set out in sub-paragraph (11) shall apply to order made under Order 30, Rule 6(2) for payment of interest on or after 1 April 2007.

- (11) Pursuant to the Chief Justice's directions as provided under Order 30, Rule 6(2), the interest ordered by the Court on the sum shown by the receiver's account as due from him and which the receiver has failed to pay into Court shall be 5.33% per annum until further notice. Interest shall accrue for the period which the sum was in possession of the receiver.