

RULES OF COURT 2012

[P.U.(A) 205/2012]

Incorporating P.U.(A) 232/2012 amendments

RULES OF COURT 2012

Order 1

Definitions (O. 1 r. 4) (page 7)

✂
"Sheriff" means the Registrar of the High Court and the Subordinate Court; [Am. PU(A) 232/12]

Order 5

Mode of beginning civil proceedings (O. 5 r. 1) (page 11)

1. Except as provided in these Rules and subject to Order 94, rule 2, proceedings shall be commenced either by originating summons or by writ. [Sub. PU(A) 232/12]

Order 11

Principal cases in which service of notice of writ out of the jurisdiction is permissible (O. 11 r. 1) (page 19)

(M) if the claim is brought to enforce or set aside any judgment or arbitral award. [Am. PU(A) 232/12]

Order 12

Time limited for appearing (O. 12 r. 4) (page 25)

(a) in the case of a writ served within Peninsular Malaysia, to fourteen days after service of the writ or, where that time has been extended by or by virtue of these Rules, to that time as so extended; and [Sub. PU(A) 232/12]

Time limited for appearing (O. 12 r. 4) (page 25)

(c) in the case of a notice of a writ served out of the jurisdiction under Order 11, rule 4, to twenty-one days after service of the notice of the writ, or in the case of a writ served under Order 10, rule 2, to fourteen days after service of the writ or in either case to such extended time as the Court may otherwise allow. [Sub. PU(A) 232/12]

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Order 12

Appearance not to constitute a waiver (O. 12 r. 9) (page 25)

9. The appearance by a defendant in an action shall not be treated as a waiver by him of any irregularity in the writ or service thereof or in any order giving leave to serve a notice of the writ out of the jurisdiction or extending the validity of the writ for the purpose of service. [Am. PU(A)
232/12]

Dispute as to jurisdiction (O. 12 r. 10) (page 26)

(c) the discharge of any order giving leave to serve a notice of the writ on him out of the jurisdiction; [Am. PU(A)
232/12]

Dispute as to jurisdiction (O. 12 r. 10) (page 26)

(5) A defendant who makes an application under paragraph (1) or paragraph (2) shall not be treated as having submitted to the jurisdiction of the Court by reason of his having entered an appearance and if the Court makes no order on the application or dismisses it, paragraph (6) shall apply as if the defendant had not made any such application. [Am. PU(A)
232/12]

Dispute as to jurisdiction (O. 12 r. 10) (page 26)

(6) Except where the defendant makes an application in accordance with paragraph (1) or paragraph (2), the appearance by a defendant shall, unless the appearance is withdrawn by leave of the Court under Order 21, rule 1, be treated as a submission by the defendant to the jurisdiction of the Court in the proceedings. [Am. PU(A)
232/12]

Order 38

Evidence by witness statement (O. 38 r. 2) (page 113)

2. (1) Notwithstanding rule 1, and unless otherwise provided by any written law or by these Rules, at the trial of an action commenced by writ, evidence-in-chief of a witness shall be given by way of witness statement and, unless the Court otherwise orders or the parties to the action otherwise agree and subject to such directions as the Court may make, such a witness shall attend trial for cross-examination and, in default of his attendance, his witness statement shall not be received in evidence except with the leave of the Court. [Am. PU(A)
232/12]

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Order 53

Applications (O. 53 r. 2) (page 181)

(4) Any person who is adversely affected by the decision, action or omission in relation to the exercise of the public duty or function shall be entitled to make the application. [Sub. PU(A) 232/12]

Order 61

Registry of the Court: Days and hours open (O. 61 r. 3) (page 216)

3. (1) The Registry of the Court shall be open on every day of the year except on a weekly holiday or a public holiday. [Am. PU(A) 232/12]
(2) The hours during which the Registry of the Court shall be open to the public shall be such as the Chief Judge may from time to time direct.

Order 69

Enforcement of awards (O. 69 r. 8) (page 245)

(8A) Order 11, rules 5, 6 and 8 shall apply to the service out of jurisdiction of the arbitration claim originating summons, or any order made in such claim, under paragraph (5). [Ins. PU(A) 232/12]

Service out of the jurisdiction (O. 69 r. 12) (page 247)

(3) Order 11, rules 5, 6 and 8 shall apply to the service out of jurisdiction of the arbitration claim originating summons, or any order made in such claim, under paragraph (1). [Ins. PU(A) 232/12]

Order 71

Interpretation (O. 71 r. 2) (page 274)

(a) in rule 2, by inserting after the definition of “Principal Registry” the following definition:

“grant” means a grant of probate or grant of letters of administration, as the context requires; [Ins. PU(A) 232/12]

Applications for order to bring in a will or to attend for examination (O. 71 r. 45)
(page 290)

45. An application under section 41 of the Act for an order requiring a person to bring in a will or to attend for examination shall be made to a Judge by notice of application, which shall be served on every such person as aforesaid. [Am. PU(A) 232/12]

Small estates (O. 71 r. 50) (page 292)

(4) In any case in which a petition under the provisions of the Small Estates (Distribution) Act 1955 is referred to the High Court under subsection 8(7) thereof, the Registrar to whom such petition is referred shall treat the petition as an originating summons so as to comply with the provisions of these Rules and may require the payment of fees which would have been payable if the petition had been filed as an originating summons in the High Court, but in all other respects the petition shall be proceeded with as though it had originally been filed as an originating summons in the High Court. [Ins. PU(A) 232/12]

Order 85

Rectification of register (O. 85 r. 1) (page 335)

1. (1) Every application to the Court under section 15 of the Bills of Sale Act 1950 [Act 268], which is referred to as “the Act” in this Order, for an order -

- (a) that any omission to register a bill of sale or an affidavit of renewal thereof within the time prescribed by the Act be rectified by extending the time for such registration; or
- (b) that any omission or misstatement of the name, residence or occupation of any person be rectified by the insertion in the register of his true name, residence or occupation,

shall be made by *ex parte* originating summons to the Judge.

[Am. PU(A)
232/12]

(2) Every application for such an order as is described in paragraph (1) shall be supported by an affidavit setting out particulars of the bill of sale and of the omission or misstatement in question and stating the grounds on which the application is made.

Entry of satisfaction (O. 85 r. 2) (page 335)

2. (1) Every application under section 16 of the Act to the Judge for an order that a memorandum of satisfaction be written on a registered copy of a bill of sale shall -

[Am. PU(A)
232/12]

- (a) if a consent to the satisfaction signed by the person entitled to the benefit of the bill of sale can be obtained, be made by *ex parte* originating summons;
- (b) in all other cases, be made by *inter partes* originating summons.

(2) An *ex parte* application under subparagraph (1)(a) shall be supported by -

- (a) particulars of the consent referred to in that paragraph; and
 - (b) an affidavit by a witness who attested the consent verifying the signature on it.
- (3) An originating summons under subparagraph (1)(b) shall be served on the person entitled to the benefit of the bill of sale, and shall be supported by evidence that the debt, if any, for which the bill of sale was made has been satisfied or discharged.

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Order 94

Exception (O. 94 r. 2) (page 360)

(3) Any application commenced under any written law, other than those listed in Appendix C, which is by way of a mode other than originating summons or writ, shall be treated as having been commenced by way of originating summons and shall be dealt with accordingly in accordance with these Rules. [Sub. PU(A) 232/12]

Savings and transitional (O. 94 r. 3) (page 360)

3. (1) Notwithstanding rule 1, Order 91 of the Rules of the High Court 1980 and Order 48, rule 63 of the Subordinate Court Rules 1980 shall not be affected by the repeal of the Rules of the High Court 1980 and the Subordinate Court Rules 1980 respectively, and remain in operation until Order 91 of these Rules comes into operation. [Am. PU(A) 232/12]

(2) All pending actions and applications that were commenced before the date of coming into operations of these Rules shall, from the date of coming into operation of these Rules, proceed in accordance with the provisions of these Rules. [Sub. PU(A) 232/12]

APPENDIX A (page 404)

No. 59

NOTICE TO ATTEND PRE-TRIAL CASE MANAGEMENT (O. 34 r. 3)

(Title as in action)

Let all parties concerned attend before the Court in Chambers on, the day of, 20, at a.m/p.m. for pre-trial case management.

[Am. PU(A)
232/12]

And further take notice that you are required to comply with the following directions:

Dated this day of, 20

(Seal)

.....
Registrar

APPENDIX A (page 488)

No. 159

**AFFIDAVIT PURSUANT TO THE PROBATE AND ADMINISTRATION ACT 1959
(O. 71 r. 5)**

In paragraph (b) item 2

2. The whole of the estate and effects of the deceased, movable and immovable, within the jurisdiction exclusive of what the deceased was possessed of or entitled to as a Trustee for any other person or persons, and not beneficially but without deducting anything on account of the debts due or owing from the deceased, does exceed in value two million ringgit to the best of the Applicant's knowledge, information and belief. A copy of the list of assets and liabilities of the said deceased is hereby produced and shown to me and marked as exhibit "....." and annexed hereto.

[Am. PU(A)
232/12]

APPENDIX A (page 522)

No. 198

WRIT (O. 93 r. 3)

INSTRUCTIONS TO PLAINTIFF:

- (6) Having completed the form, the plaintiff must file the form in 4 copies in the Registry of the Second Class Magistrates' Court. He must pay filing fee of RM20. The Registry will put the seal of the Court on the 4 Copies of the form and fill in the hearing date. A copy of the form will be returned to the plaintiff. [Am. PU(A) 232/12]

APPENDIX C (page 555)

LIST OF EXEMPTED LAWS

Please insert after item 7.

8.	Proceedings under the Income Tax Act 1967	Income Tax Act 1967 [Act 53]	[Ins. PU(A) 232/12]
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