

## **Acknowledgment of Service of Writ of Summons**

(Order 12 rule 3)

### ***Directions for Acknowledgment of Service***

1. The accompanying form of ACKNOWLEDGMENT OF SERVICE should be detached and completed by a Solicitor acting on behalf of the Defendant or by the Defendant if acting in person. After completion it must be delivered or sent by post to the Registry of the District Court at the following address:-

6/F., Wanchai Tower, No. 12 Harbour Road, Wanchai, Hong Kong.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings MUST ALSO file a DEFENCE which must be written in either the Chinese or the English language with the Registry and serve a copy thereof on the Solicitor for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear at the top of the back), the Defence must be filed and served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If a Statement of Claim is not indorsed on the Writ, the Defence must be filed and served within 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to file and serve his Defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A STAY OF EXECUTION against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must within that time, ISSUE A SUMMONS for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

*See attached Notes for Guidance*

## Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Registry of the District Court.

[2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him and a writ served by post or by insertion through the Defendant's letter box is treated as having been served on the seventh day after the date of posting or insertion.]

**(Note: Not applicable if the defendant is a company served at its registered office.)**

3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Writ of Summons)".

4. Where the Defendant is a FIRM and a Solicitor is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "partner in the firm of (.....)" after his name.

5 Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.

6. Where the Defendant is a LIMITED COMPANY the form must be completed by a Solicitor or by someone authorized to act on behalf of the Company, but the Company can take no further step in the proceedings unless :

- (i) a Solicitor is acting on its behalf; or
- (ii) a director of the Company is acting on its behalf and :
  - (a) such director has been authorized by the board of directors of the Company to act on its behalf in the proceedings; and
  - (b) such director has made and filed at the Registry of the District Court an affidavit stating that he has been authorized by the board of directors of the Company to act on its behalf in the proceedings and exhibited a copy of such resolution certified by its secretary.

7. Where the Defendant is a MINOR or a MENTAL Patient, the form must be completed by a Solicitor acting for a guardian ad litem.

8. A Defendant acting in person may obtain help in completing the form at the Registry of the District Court.

9. These notes deal only with the more usual cases. In case of difficulty a Defendant in person should refer to paragraph 8 above.

## **Supplementary Note**

Re: paragraph 6(ii)(b) of the Notes for Guidance. Please note that with effect from 26<sup>th</sup> October, 2001 the affidavit may exhibit either the original or copy of the resolution duly certified by another director or the secretary of the company.