

Service of Claim Documents in Hong Kong: Overview

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A Practice Note providing an overview of the framework for service of claim documents (in relation to domestic and foreign proceedings) in Hong Kong. It also explains the rules which determine how service of claim documents may be effected on a defendant domiciled in an overseas jurisdiction.

Service of process is a civil procedure that gives legal notice to the defendant, respondent, or adverse party that an action is pending against them and typically contains the claim documents. It makes the defendant a party to the action, provides notice on responding to the action before the court, and is generally necessary to establish a court's personal jurisdiction over the defendant.

This Practice Note summarises the procedure and practice of serving process on a defendant within Hong Kong as well as a defendant domiciled in an overseas jurisdiction. It outlines the permitted methods of service, including the rules on personal service and when and where certain categories of defendants can be served. It also describes what happens when service is not complete either because of incorrect address or the defendant refuses to accept service. In addition, it explains when a court considers service complete, whether service is allowed under a contractually agreed method, how to serve foreign companies, and what constitutes proof of service.

This Practice Note also provides guidance on key international instruments on service of claim documents abroad as well as the procedure to effect service in Hong Kong when no international instrument applies.

For information on the key issues to consider while effecting service in cross-border litigation, as well as an overview of the procedures followed under the Hague Service Convention and the EU Service Regulation, see [Practice Note, Service of Process: A Cross-Border Overview](#).

Please note that the procedures used to bring the court proceedings to the defendant's attention and create jurisdiction over the defendant are referred to as "service" in this Practice Note. In addition, all the legal documents used in service, such as the court notice or summons and documents containing the details of the claim (also known as the particulars of claim or statement of claim, petition, or application), are referred to as "claim documents."

How Are Civil Proceedings Commenced?

Identifying the Competent Court to Start Civil Proceedings

There are four main courts in Hong Kong, each of which has a different authority to handle different types of dispute. The four courts are the Labour Tribunal, the Small Claims Tribunal, the District Court and the Court of First Instance of the High Court:

- For a claim in relation to employment disputes, the claimant should commence proceedings in the Labour Tribunal.
- For a claim for a sum below HKD75,000, the claimant should commence proceedings in the Small Claims Tribunal.
- For higher value civil actions, the claimant should commence proceedings:
 - in the District Court, for general contract/tort claims up to HKD3 million; or
 - in the Court of First Instance of the High Court (CFI), generally for claims in excess of HKD3 million.

Most actions are commenced in the CFI by issuing and serving a writ of summons or an originating summons on the defendant. A writ of summons is used for actions where the main facts of the case are in dispute, while an originating summons is used for actions where the main issues in dispute are points of law and there is little or no dispute over the facts.

Certain types of action may be commenced by a petition, for example, company winding-up proceedings.

Procedural Formalities and Documents to Be Filed in the Court

A writ of summons should be prepared in the form prescribed by the court (*Form No. 1 in Appendix A, Rules of the High Court (RHC) Order 6, rule 1 (O.6, r.1)*). Where the claimant is seeking payment of money (that is, making a debt claim), the writ should include Form No. 16C in Appendix A.

A writ of summons may be indorsed with a statement of claim or, alternatively, may be generally indorsed with a brief description of the claim and the relief sought. In the case of the latter, the statement of claim should be served (and filed with the court) within 14 days of the defendant filing its acknowledgement of service indicating an intention to defend the claim (see also [Time Limit for Dispatching and Serving Claim Documents](#)).

Every copy of a writ for service on a defendant must be sealed with the seal of the High Court and accompanied by a form of acknowledgment of service (*Form No. 14 in Appendix A, RHC O.10, r.1(6)*).

Court Fee to Be Paid

The current fee for issue of a writ of summons in the CFI in Hong Kong is HKD1,045. For the Small Claims Tribunal, the fees vary from HKD20 to HKD120, depending on the claim value.

For claims filed in the CFI, court fees must be paid at the account's office at the High Court in cash or cheque. For claims filed in the Small Claims Tribunal, court fees must be paid at the office of the Small Claims Tribunal in cash, cheque or through the electronic payment system (EPS).

Filing Claim Documents in Paper Form or Electronically

Electronic submission of court documents is not currently available in Hong Kong. Paper copies must be prepared and filed with the court.

Court Seised

The court is deemed to have been seised by reference to the date when the writ of summons is filed and sealed. Issue of a writ takes place upon it being sealed by an officer of the Registry of the High Court (*RHC, O.6, r.7(3)*). Once a writ is duly issued, it becomes part of the record of the court and it is thus entered in the cause book (that is, the book or other record kept in the Registry in which the letter and number of, and other details relating to, a cause or matter are entered) (*RHC O.1, r.4(1)*). After the writ is entered in the cause book, it can be searched for, inspected and a copy can be taken of it (*RHC O.63, r.4(1)(a)*).

Laws on Service of Claims

The process for service of claim documents within the jurisdiction is governed by the RHC and, in particular, RHC O.10 (or the Rules of the District Court (which contain identical requirements on service), if the claim was commenced in the District Court).

Service of claim documents outside of the jurisdiction is governed by RHC O.11, which provides a detailed set of rules and procedures. The most important requirement is to obtain leave of the Hong Kong courts before service.

Service Within the Jurisdiction

What Claim and Other Documents Must Be Served

The RHC govern the documents that must be served.

To institute a claim, a writ of summons or an originating summons must be served (*RHC O.10, r.1 and r.5*). Every writ served on a defendant will be sealed with the seal of the High Court and must be accompanied by a form of acknowledgment of service (*Form No. 14 in Appendix A, RHC O.10, r.1(6)*) in which the title of the action and its number have been entered (*RHC O.10, r.1(6)*) (see also *Procedural Formalities and Documents to Be Filed in the Court*).

Service by Court or Claimant

The claimant, or the claimant's solicitor, is responsible for serving a writ of summons or an originating summons on the defendant.

Time Limit for Dispatching and Serving Claim Documents

For the purpose of service, a writ of summons or an originating summons (other than a concurrent writ or summons) (writ) is valid for 12 months beginning with the date of its issue (*RHC O.6, r.8(1)*).

The statement of claim may be served together with the writ (that is, indorsed on the writ). Alternatively, the writ can be issued with a concise statement of the nature of the claim made and the relief or remedy sought, with a full statement of claim to follow separately.

If served separately, the claimant must serve the statement of claim on the defendant before the expiry of 14 days after the defendant has acknowledged service indicating that it intends to defend the claim.

Methods of Service Within Jurisdiction

The original writ of summons should be served on the defendant together with three copies of the acknowledgment of service. Service can be effected:

- Personally (*RHC O.10, r.1*).
- By registered post to the defendant at their usual or last known address (*RHC O.10, r.2*).
- By inserting the documents through the letterbox of the defendant's usual or last known address, enclosed in a sealed envelope addressed to the defendant (*RHC O.10, r.2*).
- On the defendant's solicitor (if the solicitor agrees to accept service) (*RHC O.10, r.4*).

Service Using Post Services and Electronic Means of Communication (Such as Fax or Email)

Service may be effected by postal services as set out above (*see above, Methods of Service Within Jurisdiction*).

Service by electronic means (such as fax or email) is not permitted. However, it is permissible for parties to contractually agree to other methods of service of court documents (*RHC O.10, r.3*) where the Hong Kong Court of First Instance has jurisdiction under the said contract.

Personal Service

In the first instance, a writ of summons must be served personally on the defendant (*RHC O.10, r.1(1)*). Personal service of a document is effected by leaving a copy of the document with the person to be served (*RHC O.65, r.2*).

However, the exception to this rule is that a writ of summons may, in any circumstances, instead of being served personally on a defendant, be served by other means such as:

- By registered post to the defendant at their usual or last known address (*RHC O.10, r.1(2)(a)*).
- By inserting the documents through the letterbox of the defendant's usual or last known address, enclosed in a sealed envelope addressed to the defendant (*RHC O.10, r.1(2)(b)*).
- On the defendant's solicitor (if the solicitor agrees to accept service) (*RHC O.10, r.1(4)*).

Personal Service on Different Categories of Defendant

| Entity to Be Served | Means of Effecting Service |
|---------------------|--|
| An individual | The original writ of summons, together with three copies of the acknowledgement of service, can be effected on an individual personally, or by registered post/through the letterbox of the defendant at their usual or last known address, or on the defendants' solicitor. |
| A minor | A writ can be served on the minor's father or guardian, or, if there is no father or guardian, on |

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| | whomever the minor lives with or in whose care they are (<i>RHC O.80, r.16</i>). |
| A public officer or government/state body | All documents required to be served on the government for the purpose of or in connection with any civil proceedings by or against the government should be served on the Secretary for Justice (<i>section 14, Crown Proceedings Ordinance (Cap 300)</i>). |
| A sole proprietor | Same as for an individual. |
| A domestic partnership | Service may be effected personally on any one or more of the partners, at the principal place of business of the partnership within the jurisdiction, or on any person with the control or management of the partnership business there at the time of service (<i>RHC O.81, r.3</i>). |
| A domestic registered company or corporation | Service of a document on a registered company may be effected by leaving it at, or sending it by post to, the company's registered office (<i>section 827, Companies Ordinance (Cap 622); RHC O.10, r.1 and O.65, r.3(2); Guangdong International Trust and Investment Corp Hong Kong (Holdings) Ltd v Yuet Wah (Hong Kong) Wah Fat Ltd [1997] H.K.L.R.D. 489; [1997] 2 H.K.C. 696</i>). |
| A domestic company without a registered office | In the case of a limited company having no registered office as required by the Companies Ordinance, personal service may be effected on the body corporate by leaving a copy with the chairman or president of the body, or the clerk, secretary, treasurer or other similar officer of the company (<i>RHC O.65, r.3</i>). |
| A non-Hong Kong company in Hong Kong | For a registered non-Hong Kong company, service may be effected personally on the authorised representative of the company whose required details are shown in the Companies Register (<i>section 803, Companies Ordinance (Cap 622)</i>). |
| A domestic limited liability partnership | See domestic partnership. |
| Other domestic corporate or association type | See domestic registered company or corporation. |

Authorised Process Servers

The use of private process servers is generally permissible in Hong Kong.

In Hong Kong, there are no specific rules imposed on the claimant as regards who is authorised to serve process to effect personal service. The pertinent question is whether the procedure adhered to constituted effective service. The procedure to effect personal service is summarised as follows:

- The process server should first satisfy themselves that they have found the correct person on whom a copy of the writ is to be served and hand to or leave with that person a copy of the writ.
- If that person will not take the copy, it is not necessary to leave it in their actual possession.
- It is sufficient for the process server to inform the defendant that the package to be served on that person contained "court documents" without necessarily specifying that it is a "writ". However, it is not sufficient for the process server to hand to the defendant the copy writ in an envelope without informing that person that it is a copy writ/court document.

(Cheung Ping v Cheung Wai Kit DCCJ 3618/2010, [2012] HKEC 931.)

In the case of effective service from a country or a place outside of Hong Kong, the process server is the Chief Bailiff of the High Court or their authorised agent (*RHC O.69, r.1(4)*). The process server must provide the Registrar of the High Court with proof of service either by affidavit or by a certificate in such form as the Registrar directs (*RHC O.69, r.3(4)*).

Service on the Defendant's Agent or Solicitor

A writ can be served on the defendant's solicitor, provided that the solicitor accepts service on behalf of the defendant and indorses (that is, writes) on the writ that they accept service (*RHC O.10, r.1(4)*). There is no requirement that the solicitor be authorised by their client to accept service. It should also be noted that there is no requirement that the solicitor give an undertaking either to accept service or to acknowledge service of the writ.

Service Under a Contractually Agreed Method

Parties are free to agree a contractual method for service of a writ (this can include appointing an agent for service). Should a dispute arise in respect of the contract, then a writ will be deemed properly served if it is served in accordance with the provisions in the contract (*RHC O.10, r3(1)*).

Should the writ be required to be served out of the jurisdiction, then service must still comply with the court's requirements for service out of the jurisdiction (*RHC O.11*; see also [Address for Service](#)).

The following service of notice of claim clause would be considered valid:

"[Party 2] irrevocably appoints [NAME] of [ADDRESS] [FAX NUMBER] as its agent to receive on its behalf in [COUNTRY/JURISDICTION] service of any legal proceedings to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation. Such service shall be deemed completed on delivery to such agent (whether or not it is forwarded to and received by [Party 2]) and shall be valid until such time as [Party 1] has received prior written notice that such agent has ceased to act as agent. If for any reason such agent ceases to be able to act as agent or no longer has an address in [COUNTRY/JURISDICTION], [Party 2] shall forthwith appoint a substitute acceptable to [Party 1] and deliver to [Party 1] the new agent's name and address [and fax number] within [COUNTRY/JURISDICTION].

[Each party OR [Party 1] OR [Party 2]] irrevocably consents to any process in any legal action or proceedings arising out of or in connection with this agreement or its subject matter or formation being served on it in accordance with the provisions of this agreement relating to service of notices of claims. Nothing contained in this agreement shall affect the right to serve process in any other manner permitted by law."

Service on Foreign Companies Within the Jurisdiction

It is possible to validly serve a writ on a non-Hong Kong company with a place of business in Hong Kong, via its authorised representative. The detailed rules for service on a non-Hong Kong company are set out at section 803 of the Companies Ordinance (Cap 622).

Address for Service

Rules on Address

The address used for the defendant should be their usual or last known address or, in the case of a company, its registered address.

Difficulties in Service

The court may order substituted service if the defendant refuses to accept service or cannot be found, or if their address is unknown or cannot be ascertained. The court must be satisfied that personal service is impracticable and that the proposed method of substituted service will bring the writ to the attention of the defendant.

Examples of substituted service include service on an agent, solicitor or banker known to be in communication with the defendant, service on a defendant by pre-paid letter and service by advertisement.

Generally, if a defendant is located and is physically present at their address, the server of a writ should satisfy themselves that they have the correct person and then either:

- Hand a copy of the writ to the person or leave it with them.
- Where the person refuses to take the copy of the writ, inform the person to be served of the nature of the documents (stating that they are "court documents" is acceptable) and leave the documents in their presence.

(*Cheung Ping v Cheung Wai Kit DCCJ 3618/2010, [2012] HKEC 931*; see also [Authorised Process Servers.](#))

Where a writ is sent by registered post and returned as undeliverable, it will not be deemed served.

Date of service

Deemed Service

Service of a writ is deemed to be effective:

- If served in person, on the date of actual receipt.
- If served by registered post or insertion through a letterbox, on the seventh day after posting or insertion, unless the contrary is shown. The seven-day period includes Sundays and general holidays (*RHC O.10, r.1(3)(a)*).

If it can be shown that the defendant was within Hong Kong and knew of the writ on an earlier date, then service will be effective on that day.

Where a claimant uses an alternative method to personal service, such as service by registered post, and subsequently applies for judgment in default, an affidavit/affirmation of service will be required confirming that, in the opinion of the claimant, the writ will have come to the attention of the defendant (*RHC O.10, r.1(3)(b)*).

Date of Service and Limitation Period for Starting Court Proceedings

Provided that the issue of the writ is made within the relevant limitation period, it can be validly served at any time during the 12-month validity period of the writ, even if the limitation period has subsequently expired during that time.

Date of Service and Defendant's Response or Defence

The defendant must file an acknowledgment of service within 14 days after service of the writ. Time starts running from the day of service of the writ (inclusive) (*RHC O.12, r.5(a)*).

Statutory Time Limit

Time Limit to Serve Defendant Within Jurisdiction and Abroad

A writ is valid for 12 months from the date of issue.

Extension of Time Limit

If a writ is due to expire and has not yet been served, a claimant may issue a new writ or apply to the court to extend the writ for a further period (not exceeding 12 months) (*RHC O.6, r.8*).

Grounds for Extension

An application to extend the time limit is normally made *ex parte* and should be supported by an affidavit. A claimant must show a good reason for the extension. Examples of good reasons include:

- A clear agreement with the defendant that service of the writ be deferred.
- Impossibility or great difficulty in finding or serving the defendant and, more particularly, if the defendant is evading service.

Proof of Service

Should proof of service be required, for example if the claimant seeks judgment in default, the claimant should prepare an affidavit confirming the method of service and deemed date of service.

Service of Domestic Proceedings Abroad

Service Without the Permission of the Court

Permission of the court must always be obtained before serving a writ outside of the jurisdiction.

Permission of the Court to Serve Abroad

RHC Order 11 sets out the comprehensive rules for service of a writ outside of the jurisdiction. The Hong Kong courts retain a general discretion in deciding whether leave should be granted (*RHC O.11, r.4(2)*).

Application and Documents to be Filed in the Court

Application. An application may be made by the claimant ex parte to the court. The application should be supported by an affidavit and a copy of the writ, and would normally be determined on the basis of the papers only.

Supporting documents and evidence. The claimant is required to show that the following conditions are met:

- It has a good arguable case that the application falls within one of the categories in which service out is permitted (*RHC O.11, r.1(1)*).
- There is a serious issue to be tried on the merits of the claim.
- Hong Kong is the most convenient forum for the trial of the case.

Where No International Instrument Applies

Once leave of the court has been obtained to serve a writ out of the jurisdiction, the writ and acknowledgment of service should be served on the defendant. Both documents should be amended to show that the defendant has an additional 14 days for filing of the acknowledgment of service (that is, 28 days in total).

A writ may be served out of the jurisdiction using mostly the same methods as for service within the jurisdiction, although the method of service must not be contrary to the law of the relevant foreign jurisdiction (*RHC O.11, r.5(2)*). It is therefore important to seek local legal advice in the particular country of service.

Alternatively, where parties have contractually agreed specific methods for effecting service of court documents, then the agreed method may be used to serve a writ on a defendant outside of the jurisdiction (once leave has been obtained) where the contract:

- Provides that the Hong Kong courts have jurisdiction to hear and determine any action in respect of the contract.
- Specifies how court documents may be served on a party or a person on its behalf.

Service of Foreign Proceedings

International Instruments on Service of Claims

Hong Kong is a party to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Hague Service Convention). Service can be effected via the Hague Service Convention in Hong Kong by sending the court documents, together with a written request from the relevant authority in the originating jurisdiction, to the Chief Secretary for Administration of Hong Kong SAR.

Hong Kong is also party to a bilateral arrangement between mainland China and Hong Kong for the service of judicial documents, namely the Mutual Service of Judicial Documents in Civil and Commercial Proceedings between the Mainland and HKSAR Courts, Rules of the High Court (Amendment) Rules 1999.

Where No International Instrument Applies

Service of foreign proceedings can be effected in accordance with the methods of service prescribed by the RHC (*see above, Methods of Service Within Jurisdiction*).

Time Frame to Serve Foreign Proceedings

This will depend on the method of service used. For foreign proceedings served via the Hague Service Convention, it generally takes around three to four months for the Chief Secretary for Administration in Hong Kong to execute the request for service.

The Hague Service Convention

Central Authority

For contact details of the designated Central Authority and the additional authorities, see *Authorities, Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*.

Reservations, Declarations, and Notifications

See *Status table, Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* for a complete list of reservations, declarations and notifications made by the member states in relation to:

- Submission of request to serve process (Article 3).
- Service by diplomatic or consular agents (Article 8).
- Service by postal channels (Article 10).
- Direct service by judicial officers, officials or other competent persons (Article 10).
- Certificate of evidence as proof of service (Article 15).

National Rules

There are no specific rules or laws governing this matter.

Email Service

Service by email will only be deemed effective by the Hong Kong courts where parties have contractually agreed email as a method for effecting service of court documents and the contract provides that the Hong Kong courts have jurisdiction to hear and determine any action in respect of the contract (*RHC O.10, r.3*).

Sufficient Time for a Default Judgment

This will depend on the facts and circumstances of each case and the discretion of the court. Generally, a claimant can apply for judgment in default where a defendant has failed to either:

- File an acknowledgment of service in accordance with the prescribed time limit.
- Failed to serve a defence within the prescribed time limit. For a defendant located outside of the jurisdiction, the prescribed time limit for filing an acknowledgment of service would normally be extended to 28 days.

Reasonable Time to Vacate a Default Judgment

This will depend on the facts and circumstances of each case and the discretion of the court. In exercising its discretion, the court will consider when the defendant became aware of the judgment entered in default and any subsequent delay in filing an application to vacate the judgment.

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