

PRACTICE DIRECTION 25.1

CHAMBERS HEARINGS IN CIVIL PROCEEDINGS IN THE HIGH COURT, THE DISTRICT COURT, THE FAMILY COURT AND THE LANDS TRIBUNAL

1. This Practice Direction governs hearings in chambers in civil proceedings in the High Court, the District Court, the Family Court and the Lands Tribunal regulating when such hearings are to be open to the public and when such hearings are not open to the public, as the case may be. A hearing open to the public is one where the hearing is open to the press and the public to attend. A hearing not open to the public is a closed one where the press and the public are excluded from attending.

2. All chambers hearings (interlocutory or otherwise) shall be held in public except in the instances set out in paragraphs 3, 4(a) and 5.

3. Where statutory provision(s) specifically require proceedings to be not open to the public, such as those listed in Schedule 1, such proceedings shall not be open to the public in accordance with the provisions.

4. (a) The proceedings listed in Schedule 2 would usually not be open to the public. In relation to such proceedings, it is considered that having regard to their nature, one or more of the reasons for excluding the press and the public laid down in Article 10 of the Hong Kong Bill of Rights Ordinance, Cap. 383 ("Article 10") are usually satisfied. Accordingly, such proceedings would usually not be open to the public.

- (b) However, if in a particular case, the court is of the view that none of the reasons in Article 10 is satisfied in the circumstances of the case concerned, the court may, whether upon a party's application (as to which see paragraph 7) or on its own motion, order that the hearing be open to the public.

5. At any stage of any proceedings other than those governed by paragraphs 3 and 4 above, where the court is of the view that one or more of the reasons in Article 10 are satisfied, it may, whether upon a party's application (as to which see paragraph 7) or on its own motion, order that a chambers hearing open to the public be closed to the public for the whole or part of the hearing.

6. Where the court has made an order referred to in paragraph 4(b) or paragraph 5, it may subsequently revoke or vary such an order.

7. Any party to an inter partes application who wishes to apply for an order referred to in paragraph 4(b) or paragraph 5 shall, as soon as practicable, and in any case not less than 2 clear days before the hearing apply in writing to the court with grounds in support thereof, giving notice to all other parties to the application. Any party who opposes the application shall state his grounds in opposition which shall reach the court and the party who has applied for the order no later than the day before the hearing. Such application will be dealt with by the court on paper unless the court directs that an oral hearing be held.

8. This Practice Direction is without prejudice to the court's powers to adjourn the hearing of any summons or other application from chambers into court and subsequently from court into chambers

pursuant to Order 32 rule 18 of the Rules of the High Court and Rules of the District Court.

Summons or notice

9. The party filing a summons or notice for hearing in chambers should specify therein, in accordance with this Practice Direction, whether the hearing is to be open to the public or not open to the public.

Daily Cause List

10. Where any chambers hearing is not to be open to the public, such hearing will be listed as "In chambers (not open to the public)".

Order

11. An order made by the court at a hearing in chambers not open to the public should be so stated expressly therein.

Exceptions

12. For the avoidance of doubt, this Practice Direction does not apply to proceedings under Orders 115 to 119 of the Rules of the High Court.

Rights of Audience

13. The existing rights of audience of solicitors in chambers hearings shall continue to apply, whether the chambers hearings are open to the public or not open to the public.

14. The existing rights of persons entitled to appear before a master in chambers and a taxing master as provided for in Practice Directions PD 14.1 and paragraph 3 of PD 27 shall continue to apply,

whether the chambers hearings are open to the public or not open to the public.

15. This Practice Direction will take effect on 18 July 2005.

Dated this 31st day of May 2005.



Andrew Li
Chief Justice

Sch 1

Sch 2

Schedules to Practice Direction 25.1

Schedule 1

Types of proceedings **required** by legislation to be not open to the public, including the following:

Ordinance/Rules	Provisions	Nature of proceedings
Adoption Rules (Cap 290A)	r.4	On all proceedings under the Adoption Ordinance
Patent Ordinance (Cap 514)	s.130(2)	On all appeals under the Ordinance concerning a patent application which has not been published

Schedule 2

Types of proceedings **usually** not open to the public by reason of their nature, including the following:

(1) *Matters relating to children and applications for financial provisions and ancillary relief*

Ordinance/Rules	Provisions	Nature of proceedings
Rules of the High Court (Cap 4A)	Order 54	On applications for writ of <i>habeas corpus and subjiciendum</i> on behalf of a minor
	Order 90	On applications relating to minors
	Order 121	On all applications under the Child Abduction and Custody Ordinance (Cap 512)
Guardianship of Minors Ordinance (Cap 13)	s.23	On all applications under the Ordinance
Separation and Maintenance Orders Ordinance (Cap 16)		On all applications under the Ordinance except judgment summonses

Matrimonial Causes Ordinance (Cap 179)	s.52(3)	On all applications relating to children under the Ordinance On questions of sexual capacity in proceedings for nullity of marriage
Matrimonial Causes Rules (Cap 179A)	r.81	On all applications relating to children under the Rules On applications for ancillary relief or questions arising thereon having been referred or adjourned to a judge
Maintenance Orders (Reciprocal Enforcement) Ordinance (Cap 188)		On all applications under the Ordinance except judgment summonses
Domestic Violence Rules (Cap 189A)	r.8	On all proceedings under the Ordinance
Matrimonial Proceedings and Property Ordinance (Cap 192)	s.2A, s.25	On all applications under the Ordinance except judgment summonses
Rules of the District Court (Cap 336H)	Order 90	On applications relating to minors
Parent and Child Ordinance (Cap 429)	s.8(3)	On applications for declaration of parentage, legitimacy or legitimation
Human Reproductive Technology Ordinance (Cap 561)	s.35(3) and (4)	On questions as to whether a person is or is not the parent of a child

(2) *Matters relating to disability, e.g. mental disability, infancy*

Ordinance/Rules	Provisions	Nature of proceedings
Rules of the High Court (Cap 4A)	Order 32 rule 9	On applications for leave to institute proceedings under s.69 of the Mental Health Ordinance (Cap 136)
	Order 80	On applications relating to persons under disability

Employees' Compensation Ordinance (Cap 282)	s.6A	On applications relating to apportionment of compensation in fatal cases
	s.6H(6)	On applications relating to the disposal of compensation apportioned to dependants, etc
	s.13	On applications relating to distribution of compensation, etc.
Rules of the District Court (Cap 336H)	Order 80	On applications relating to persons under disability

(3) *Matters relating to ex parte applications for injunctions or orders of a restraining or compulsory nature*

Ordinance/Rules	Provisions	Nature of proceedings
Rules of the High Court (Cap 4A)	Order 29	On ex parte applications for injunction
	Order 30	On ex parte applications for receiver and injunction
	Order 44A	On ex parte applications for prohibition order and for taking security/attachment of property
	Order 51	On ex parte applications for the appointment of receiver by way of equitable execution
Landlord and Tenant (Consolidation) Ordinance (Cap 7)	s.77, 85 & 91	On ex parte applications for warrant of distress and order to break open outer doors and windows
Rules of the District Court (Cap 336H)	Order 29	On ex parte applications for injunction
	Order 30	On ex parte applications for receiver and injunction
	Order 44A	On ex parte applications for prohibition order

	Order 51	On ex parte applications for the appointment of receiver by way of equitable execution
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(4) *Matters relating to companies winding-up and bankruptcy*

Ordinance/Rules	Provisions	Nature of proceedings
Rules of the High Court (Cap 4A)	Order 29	On applications for order restraining presentation or advertisement of winding up petition
Bankruptcy Ordinance (Cap 6)	s.13	On applications to appoint interim receiver for protection of estate
	s.27	On applications to arrest debtor
Bankruptcy Rules (Cap 6A)	r.48	On applications to set aside statutory demands
	r.82A	On applications for public examination of bankrupt pursuant to s.19 of the Ordinance
	r.87B	On applications for inquiry into bankrupt's conduct pursuant to s.29 of the Ordinance
Companies Ordinance (Cap 32)	s.193	On applications for appointment of provisional liquidator
	s.199(1)(e) and (f)	On applications by liquidator to sanction compromise
	s.221(1)	On applications for an order for private examination
	s.224	On applications to arrest absconding contributory or officer
Companies (Winding-up) Rules (Cap 32H)	r.5(2)	On private examinations conducted pursuant to s. 221 of the Ordinance and directed to be held in chambers

	rr.50 and 51	On applications for consideration of report pursuant to s.191(2) and 222 of the Ordinance
	r.58	On summonses returnable in the first instance in chambers for consideration of report in applications pursuant to ss. 168I, 275, 276 and 358(2) of the Ordinance

(5) *Matters relating to intellectual property*

Ordinance/Rules	Provisions	Nature of proceedings
Copyright (Border Measures) Rules (Cap 4F)	s.5	On proceedings under sections 136, 137, 138, 139 and 140 of the Copyright Ordinance (Cap 528) relating to detention and disclosures of information
Trade Mark (Border Measures) Rules (Cap 362F)	r.5	On proceedings under sections 30B, 30C, 30D, 30E and 30F of the Trade Descriptions Ordinance (Cap 362) relating to detention and disclosures of information
Registered Design Ordinance (Cap 522)	s.58(2)	On all appeals under the Ordinance concerning an application for registration of a design

(6) *Matters relating to arbitration*

Ordinance/Rules	Provisions	Nature of proceedings
Rules of the High Court (Cap 4A)	Order 73	On all applications under the Arbitration Ordinance (Cap 341)
Arbitration Ordinance (Cap 341)	s.2D	On all proceedings under the Ordinance in the High Court and Court of Appeal

(7) *Matters relating to representation in legal proceedings*

Ordinance/Rules	Provisions	Nature of proceedings
Rules of the High Court (Cap 4A)	Order 5 rule 6(3) and Order 12 rule 1(2A)(a)	On applications by company for leave to be represented by director
	Order 67	On applications by solicitors for a declaration of having ceased to act
Legal Aid Ordinance (Cap 91)	s.26	On appeals from decision of Director of Legal Aid to Registrar of High Court
Rules of the District Court (Cap 336H)	Order 67	On applications by solicitors for a declaration of having ceased to act

(8) *Matters relating to trustees*

Ordinance/Rules	Provisions	Nature of proceedings
Rules of the High Court (Cap 4A)	Order 85 rule 2	On applications by a trustee for directions, including a Beddoe Order
Trustee Ordinance (Cap 29)	s.4	On applications for investments by trustee other than the specified ones
Administration of Trust Funds Rules (Cap 29A)	r.6	On applications by trustee under the Ordinance relating to administration of funds
Judicial Trustee Rules (Cap 29B)	r.12	On applications to obtain from judicial trustee information or explanation required for properly giving directions, or for the purpose of explaining the nature of the directions

(9) *Matters relating to obtaining evidence for foreign court*

Ordinance/Rules	Provisions	Nature of proceedings
Rules of the High Court (Cap 4A)	Order 70	On applications to obtain evidence for foreign court

實務指示 25.1

高等法院、區域法院、家事法庭和土地審裁處的 民事法律程序中的內庭聆訊

1. 本實務指示規管在高等法院、區域法院、家事法庭和土地審裁處內進行的民事法律程序中的內庭聆訊，規限着這類聆訊何時應該公開及何時不應公開（視乎情況而定）。公開聆訊是指在聆訊時，新聞界和公眾人士也可旁聽。非公開的聆訊是不對外開放的，新聞界和公眾人士均被禁止旁聽。
2. 所有內庭聆訊（正審或非正審）必須公開，但第 3、4(a)和 5 段內所述情況則屬例外。
3. 凡法定條文已明確規定某些法律程序不得公開者（如附表 1 所列），該等程序必須按照該相關條文的規定，以非公開形式進行。
4. (a) 附表 2 所列的法律程序通常是不公開的。這些法律程序，由於其性質的關係，都被視為符合一項或多項載於香港法例第 383 章《香港人權法案條例》第十條（“第十條”）的禁止新聞界和公眾列席的理由。因此，這類法律程序通常是不公開的。

(b) 然而，法庭在處理案件時，如果認為某件案件的情況並不符合第十條所列的任何一個理由，不論是應與訟一方申請（詳見第 7 段），還是由法庭主動提出，也可命令聆訊以公開形式進行。

5. 除了受以上第 3 和第 4 段規管的法律程序外，法庭在處理任何法律程序的任何階段期間，如果認為情況符合第十條所列的其中一項或多項理由，不論是應與訟一方的申請（詳見第 7 段），還是由法庭主動提出，也可命令把該原屬公開的內庭聆訊改為全部或部分不公開。

6. 法庭在作出第 4(b)或第 5 段提述的命令後，是可以撤回或更改此命令。

7. 各方之間的申請中任何一方如欲申請第 4(b)或第 5 段所提述的命令，必須在切實可行範圍內盡快（在任何情況下也不得少於聆訊前兩整天）向法庭以書面形式提出申請，並附以理由支持，及通知申請中所涉及的其他所有各方。與訟任何一方反對這項申請的話，必須述明反對理由，並在不遲於聆訊前一天把該等理由送抵法院和送交申請命令的一方。法庭將會根據已呈交的文件處理此申請，不會進行口頭聆訊，除非另有指示。

8. 本實務指示不影響《高等法院規則》及《區域法院規則》第 32 號命令第 18 條規則所賦予法庭的權力，即法庭有

權把在內庭進行的任何傳票或其他申請的聆訊押後而從內庭轉往法庭，及其後再將之押後而從法庭轉往內庭。

傳票或通知

9. 任何一方如向法庭送交傳票或通知書要求在內庭進行聆訊，應按照本實務指示的規定，在傳票或通知書上說明聆訊是否公開。

審訊案件表

10. 任何非公開的內庭聆訊，在審訊案件表上會列為“內庭聆訊（非公開）”。

命令

11. 在非公開的內庭聆訊中作出的命令裡，應明確說明聆訊是在非公開形式進行。

例外情況

12. 為免生疑問，本實務指示不適用於根據《高等法院規則》第 115 至 119 號命令進行的法律程序。

出庭發言權

13. 無論內庭聆訊屬公開與否，律師現時在內庭聆訊中的出庭發言權繼續適用。

14. 按實務指示 14.1 和實務指示 27 第 3 段的規定有權在聆案官內庭和訟費評定官席前出庭的人士，不論內庭聆訊屬公開與否，其現有的權利繼續適用。

15. 本實務指示在 2005 年 7 月 18 日生效。

日期：2005 年 5 月 31 日

李國能

終審法院首席法官

李國能

附表 1

附表 2

實務指示 25.1 附表

附表 1

法例規定公眾人士不得列席的法律程序，包括以下各類：

條例/規則	條文	程序性質
《領養規則》(第 290A 章)	第 4 條規則	所有根據《領養規則》進行的法律程序
《專利條例》(第 514 章)	第 130(2)條	所有根據此條例提出而關乎一項沒有發表的專利申請的上訴

附表 2

以下各類法律程序，由於程序性質的關係，通常不讓公眾人士列席：

(1) 所有關於兒童的事宜，及關於經濟給養和附屬濟助的申請

條例/規則	條文	程序性質
《高等法院規則》 (第 4A 章)	第 54 號命令	代未成年人提出的“解交被拘押者並說明其拘押日期及原因令狀”的申請
	第 90 號命令	關於未成年人的申請
	第 121 號命令	所有根據《擄拐和管養兒童條例》(第 512 章)提出的申請
《未成年人監護條例》 (第 13 章)	第 23 條	所有根據此條例提出的申請
《分居令及贍養令條例》 (第 16 章)		所有根據此條例提出的申請，但判決傳票申請則除外
《婚姻訴訟條例》 (第 179 章)		所有根據此條例提出而關乎兒童的申請

	第 52(3)條	在婚姻無效法律程序中有關性能力的問題
《婚姻訴訟規則》 (第 179A 章)	第 81 條規則	所有根據此規則提出而關乎兒童的申請 已轉呈或押後給法官審理的附屬濟助申請或由此項申請引起的任何問題
《贍養令（交互強制執行）條例》 (第 188 章)		所有根據此條例提出的申請，但判決傳票申請則除外
《家庭暴力規則》 (第 189A 章)	第 8 條規則	所有根據此條例而進行的法律程序
《婚姻法律程序與財產條例》 (第 192 章)	第 2A 條，第 25 條	所有根據此條例提出的申請，但判決傳票申請則除外
《區域法院規則》 (第 336H 章)	第 90 號命令	關乎未成年人的申請
《父母與子女條例》 (第 429 章)	第 8(3)條	要求作出關於父母身分、婚生地位或確立婚生地位的宣告的申請
《人類生殖科技條例》 (第 561 章)	第 35(3)及(4)條	某人是否某孩子的父親或母親的問題

(2) 關於無行為能力的事宜，例如心智上無行為能力或未成年

條例/規則	條文	程序性質
《高等法院規則》 (第 4A 章)	第 32 號命令第 9 條規則	所有根據《精神健康條例》 (第 136 章) 第 69 條提出的 要求批給法律程序開展許可 的申請
	第 80 號命令	所有關於無行為能力的人的 申請
《僱員補償條例》 (第 282 章)	第 6A 條	關於致命個案補償分配的申 請
	第 6H (6) 條	處置分配給受養人的補償等 事宜的相關申請
	第 13 條	關於補償分發等事宜的申請
《區域法院規則》 (第 336H 章)	第 80 號命令	關於無行為能力的人的申請

(3) 關於單方面申請強制令或其他具限制性或強迫性的命令的事宜

條例/規則	條文	程序性質
《高等法院規則》 (第 4A 章)	第 29 號命令 第 30 號命令 第 44A 號命令 第 51 號命令	單方面申請強制令 要求委任接管人並授予強制令的單方面申請 要求授予禁止令並收取保證/把財產扣押的單方面申請 要求由於衡平法執行而委任接管人的單方面申請
《業主與租客(綜合)條例》 (第 7 章)	第 77, 85 及 91 條	要求授予財物扣押令及授予命令以強行開啓建築物外門和外窗的單方面申請
《區域法院規則》 (第 336H 章)	第 29 號命令 第 30 號命令 第 44A 號命令 第 51 號命令	單方面申請強制令 要求委任接管人並授予強制令的單方面申請 單方面申請禁止令 要求由於衡平法執行而委任接管人的單方面申請

(4) 關於公司清盤和破產的事宜

條例/規則	條文	程序性質
《高等法院規則》 (第 4A 章)	第 29 號命令	要求授予命令限制提交清盤呈請或刊登清盤呈請公告的申請
《破產條例》 (第 6 章)	第 13 條 第 27 條	要求委任臨時接管人以保護產業的申請 申請逮捕債務人
《破產規則》 (第 6A 章)	第 48 條規則 第 82A 條規則 第 87B 條規則	申請將法定要求償債書作廢 根據此條例第 19 條提出對破產人進行公開訊問的申請 根據此條例第 29 條提出對破產人的行為操守進行查訊
《公司條例》 (第 32 章)	第 193 條 第 199(1)(e)及 (f)條 第 221(1)條 第 224 條	申請委任臨時清盤人 清盤人申請認許妥協 申請進行不公開訊問 申請逮捕潛逃的分擔人或高級人員

《公司（清盤）規則》 (第 32H 章)	第 5(2)條規則	根據此條例第 221 條進行，並經指示須在內庭進行的不公開訊問
	第 50 和 51 條規則	根據此條例第 191(2)和 222 條提出申請，要求考慮報告
	第 58 條規則	因應根據此條例第 168I、275、276 和 385 (2) 條所提出的申請，為考慮報告而進行的首次內庭聆訊

(5) 關於知識產權的事宜

條例/規則	條文	程序性質
《版權（邊境措施）規則》 (第 4F 章)	第 5 條	根據《版權條例》（第 528 章）第 136 至 140 條進行並與拘留及資料披露有關的法律程序
《商標（邊境措施）規則》 (第 362F 章)	第 5 條規則	根據《商品說明條例》（第 362 章）第 30B、30D、30E 和 30F 條進行並與拘留及資料披露有關的法律程序
《註冊外觀設計條例》 (第 522 章)	第 58(2)條	所有根據此條例提出並關乎一項外觀設計註冊申請的上訴

(6) 關於仲裁的事宜

條例/規則	條文	程序性質
《高等法院規則》 (第 4A 章)	第 73 號命令	所有根據《仲裁條例》(第 341 章)提出的申請
《仲裁條例》 (第 341 章)	第 2D 條	所有根據此條例在高等法院和上訴法庭進行的法律程序

(7) 關於法律程序中的代表的事宜

條例/規則	條文	程序性質
《高等法院規則》 (第 4A 章)	第 5 號命令第 6(3)條規則及第 12 號命令第 1(2A)(a)條規則 第 67 號命令	公司要求發給許可准予由董事代表的申請 律師要求法庭宣布他已停止作為某人代表律師的申請
《法律援助條例》 (第 91 章)	第 26 條	反對法律援助署署長的決定而向高等法院司法常務官提出上訴
《區域法院規則》 (第 336H 章)	第 67 號命令	律師要求法庭宣布他已停止作為某人代表律師的申請

(8) 關於受託人的事宜

條例/規則	條文	程序性質
《高等法院規則》 (第 4A 章)	第 85 號命令第 2 條規則	受託人申請指示，包括申請“Beddoe Order”
《受託人條例》 (第 29 章)	第 4 條	受託人申請把信託基金投資在不是指明的項目上
《信託基金管理規則》 (第 29A 章)	第 6 條規則	受託人根據此條例提出的關於信託基金管理的申請
《司法受託人規則》 (第 29B 章)	第 12 條規則	申請從司法受託人處取得爲了恰當地作出指示或爲了對指示的性質作出解釋而須取得的資料或解釋

(9) 關於爲外地法院取得證據的事宜

條例/規則	條文	程序性質
《高等法院規則》 (第 4A 章)	第 70 號命令	申請爲外地法院取得證據