

LEGISLATIVE COUNCIL BRIEF

RULES OF THE DISTRICT COURT
(AMENDMENT) RULES 2001

INTRODUCTION

Under section 72 of the District Court Ordinance (Cap. 336), the District Court Rules Committee made a number of amendments to the Rules of the District Court.

BACKGROUND AND ARGUMENT

2. The present law does not provide a time frame for appeal against decisions of the District Judge in a matrimonial matter. The amendment in relation to Order 58 of the rules of the District Court is to fill this lacuna.

3. There has been doubt as to whether or not the Rules of the District Court apply to employee compensation proceedings. To remove the doubt, the proposed amendments make it clear that the Rules of the District Court do so apply, except where rules have been made under section 50 of the Employees' Compensation Ordinance (Cap. 282).

4. In implementation of the Rules of the District Court since 1st September 2000, limited companies acting in person have difficulty in strict compliance with Order 5A of the Rules of the District Court. To simplify the procedure further, the amendments allow the company to produce the original or copy of the Board's resolution authorizing an appointed director to act on behalf of the limited company.

5. Some provisions on fixed costs found in the Rules of the High Court are not included in the Rules of the District Court. There is no reason in principle why those rules of the High Court do not apply. Amendments to Order 62 of the Rules of the District Court relating to costs are therefore made to bring the practice in line with that of the High Court. The quantum of fixed costs to be introduced in the Rules of the District Court is based on two-thirds of the High Court scale.

THE AMENDMENT RULES

6. The Rules of the District Court (Amendment) Rules 2001 are at Annex. The purpose of the exercise is to amend the Rules of the District Court –

- (a) so that the Rules of the District Court shall not apply to matrimonial proceedings except for an appeal against any judgment of a judge (in which case Order 58 shall apply) (rule 1); or proceedings for the recovery of employees' compensation in respect of which rules are made under section 50 of the Employees' Compensation Ordinance (Cap. 282) (rule 1);
- (b) to enable a director of a corporation who is acting on its behalf in court proceedings to exhibit either the original or a certified copy of the resolution authorizing him so to act (rule 2);
- (c) to provide for fixed costs for judgment on failure to give notice of intention to defend on all applications under Order 83A, rule 4, substituted service and other matters (rule 3); and
- (d) to provide for fixed costs for garnishee orders and charging orders (rule 3).

LEGISLATIVE TIMETABLE

7. The Amendment Rules will be published in the Gazette on 26 October 2001 and tabled in the Legislative Council on 31 October 2001 for negative vetting.

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the Amendment Rules do not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the Amendment Rules are consistent with the human rights provisions of the Basic Law.

BINDING EFFECT

10. The Amendment Rules do not affect the current binding effect of the relevant ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

11. Given that fixed costs are generally lower than taxed costs, Government as a litigant will benefit from the Amendment Rule to introduce fixed costs in the District Court (rule 3) due to lower costs of litigation. The proposal will also help generate some notional savings in the Judiciary as a result of the reduction in workload of the taxing masters. It is difficult to assess the quantum of these savings, which is dependent on the workload of the taxing masters and the number of District Court cases to which Government is a party to the proceedings. There are no financial or staffing implications arising from the other Amendment Rules (rule 1 and rule 2).

PUBLIC CONSULTATION AND PUBLICITY

12. The amendments involved are technical and minor in nature. Public consultation and publicity arrangement are considered unnecessary.

ENQUIRIES

13. For any enquiry on this brief, please contact Ms Rebecca Pun, Assistant Judiciary Administrator (Development), at telephone no. 2825 4244.

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