

**立法會**  
**Legislative Council**

Ref : CB2/HS/1/07

LC Paper No. CB(2)1926/07-08  
(These minutes have been seen  
by the Administration)

**Subcommittee on Draft Subsidiary Legislation  
Relating to the Civil Justice Reform**

**Minutes of the sixth meeting  
held on Monday, 14 April 2008, at 10:45 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon LI Kwok-ying, MH, JP  
Hon Ronny TONG Ka-wah, SC
- Member absent** : Hon James TO Kun-sun
- Public Officers attending** : Item II  
Judiciary Administration  
Miss Vega WONG  
Assistant Judiciary Administrator (Development)
- The Administration  
Department of Justice  
Mr Wesley WONG  
Senior Assistant Law Officer (Civil Law)
- Mr K F CHENG  
Senior Assistant Law Draftsman
- Clerk in attendance** : Mrs Percy MA  
Chief Council Secretary (2)3
- Staff in attendance** : Miss Kitty CHENG  
Assistant Legal Adviser 5  
Ms Amy YU  
Senior Council Secretary (2)3

Action

**I. Confirmation of minutes of meeting**  
(LC Paper No. CB(2)1579/07-08 - Minutes of meeting on 26 March 2008)

The minutes of meeting held on 26 March 2008 were confirmed.

**II. Meeting with the Administration/Judiciary Administration**  
(LC Paper No. CB(2)1581/07-08(01) - Paper entitled "Procedure under the new Order 13A - Admissions in claims for payment of money" provided by the Judiciary Administration)

LC Paper No. CB(2)1581/07-08(02) - Submission dated 8 April 2008 from the Law Society of Hong Kong concerning preparation and training for the implementation of the Civil Justice Reform

LC Paper No. CB(2)1000/07-08(01) - Proposed amendments to the Rules of the High Court (RHC) together with the following Annexes -  
Annex A - a summary table setting out the RHC Orders affected and the relevant Amendment Rules in the Draft RHC  
Annex B - the Draft RHC  
Annex C - the marked-up version of the provisions affected by the amendments in the Draft RHC

LC Paper No. CB(2)1129/07-08(01) - Policy aspects of the proposed amendments to RHC

LC Paper No. CB(2)1152/07-08(01) - Summary of views received on the Draft RHC during the public consultations in April 2006 and October 2007 and the response of the Steering Committee on Civil Justice Reform

LC Paper No. CB(2)1373/07-08(02) - Judiciary's response to the first round of submissions from deputations)

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).

Scrutiny of the proposed amendments to the Rules of the High Court

Judiciary  
Admin

3. The Judiciary Administration was requested to –

Part 6 - Default judgments and admissions

- (a) consider modifying the proposed procedure for making an admission to a money claim and requesting time to pay into a two-stage process, as follows -

Action

1<sup>st</sup> stage

- the defendant was required to admit liability to the plaintiff's claim in whole or in part and make a proposal on payment terms (as to time and installments) without the need to supply information on his means at this stage. If the plaintiff accepted the defendant's proposal for payment, the court would, at the request of the plaintiff, enter judgment for the amount to be paid by the defendant at the times and rate specified in the defendant's proposal for payment;

2<sup>nd</sup> stage

- if the plaintiff did not accept the defendant's proposal for payment, the defendant would be required to provide information on his means, on the basis of which the Court would decide how the payment should be made;
- (b) consider adding a proviso to the Explanatory Notes in Form no. 16 to alert defendants who intended to make admissions to money claims and propose payment terms that they would not normally be allowed to resile from their admissions if his proposal had not been accepted by the plaintiff;
- (c) consider making clear in Order 13A rule 10 and the relevant forms that the court would make a determination on payment terms taking into account the defendant's means;

Part 7 - Pleadings

- (d) consider whether the word "denial" in Order 18 rule 13(5) should be replaced by the word "non-admission";
- (e) confirm whether, for the purpose of Order 41A, pleadings included statements of claim;
- (f) consider setting out in the relevant forms for issuing a writ or an originating summons the requirement that the pleading should be verified by a statement of truth;
- (g) explain the possible consequences for a legal representative who had signed a statement of truth on behalf of his client but had failed to meet the requirements stipulated in Order 41A rule 4(3)(a) to (c), and it was subsequently found out that his client had made a false statement without an honest belief in its truth; and
- (h) clarify whether a statement of truth could be filed separately from the pleading that it verified, and if so, whether any special procedure was required.

Action

**II. Any other business**

4. The Chairman reminded members that the next meeting would be held on Friday, 18 April 2008 at 8:30 am.

5. The meeting ended at 12:39 pm.

Council Business Division 2  
Legislative Council Secretariat  
14 May 2008

**Proceedings of the sixth meeting of the  
Subcommittee on Draft Subsidiary Legislation  
Relating to the Civil Justice Reform  
on Monday, 14 April 2008, at 10:45 am  
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000317 - 000405	Chairman	Confirmation of minutes of meeting	
000406 - 000557	Chairman Ms Miriam LAU	Submission dated 8 April 2008 from the Law Society of Hong Kong concerning preparation and training for the implementation of the Civil Justice Reform (CJR) [LC Paper No. CB(2) 1581/07-08(02)]	
000558 - 000716	ALA5 Chairman	ALA5's letter to the Judiciary Administration (JA) concerning the subsidiary legislation for commencing the draft amendments to the Rules of the High Court	
000717 - 002229	Chairman Judiciary Administration Ms Miriam LAU	<u>Scrutiny of the Draft High Court (Amendment) Rules 2008</u>  <u>Part 6 - Default judgments and admissions</u>  <u>New Order 13A</u>  Briefing by JA on its paper setting out the procedure under the new Order 13A and the relevant forms involved [LC Paper No. CB(2)1581/07-08(01)]	
002230 - 002510	Chairman Judiciary Administration	Form No. 14 - Acknowledgement of service of writ of summons	
002511 - 003310	Judiciary Administration Ms Miriam LAU Administration Ronny TONG	Form No. 16 - Admission (liquidated amount)  In response to Ms Miriam LAU's enquiry on Form No. 16, JA/Administration's response that <ul style="list-style-type: none"> <li>(a) the content of the form was modelled upon its counterpart under the Civil Procedures Rules (CPR) and attempt had already been made to simplify the form;</li> <li>(b) the new procedure to be introduced under Order 13A was intended to provide an avenue for a defendant who had no defence against a money claim to make admission to the claim and propose payment terms, thereby facilitating settlements and saving court time and costs; and</li> </ul>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>(c) the content of the form was predicated on the premise that a defendant might seek time to pay solely on account of lack of means</p> <p>Ms Miriam LAU's view that the large amount of information a defendant was requested to provide in the form regarding his financial situation would deter defendants from making use of the new procedure introduced by Order 13A. JA was requested to consider modifying the proposed procedure for making an admission to a money claim and requesting time to pay into a two-stage process, as follows -</p> <p><u>1<sup>st</sup> stage</u></p> <ul style="list-style-type: none"> <li>- the defendant was required to admit liability to the plaintiff's claim in whole or in part and make a proposal on payment terms (as to time and installments) <u>without</u> the need to supply information on his means at this stage. If the plaintiff accepted the defendant's proposal for payment, the court would, at the request of the plaintiff, enter judgment for the amount to be paid by the defendant at the times and rate specified in the defendant's proposal for payment</li> </ul> <p><u>2<sup>nd</sup> stage</u></p> <ul style="list-style-type: none"> <li>- if the plaintiff did not accept the defendant's proposal for payment, the defendant would be required to provide information on his means, on the basis of which the Court would decide how the payment should be made</li> </ul>	<b>JA to follow up</b>
003311 - 004416	Chairman Judiciary Administration Administration Ms Miriam LAU	<p>In response to the Chairman's enquiry on Order 13A rule 2(3), JA's response that it was not envisaged under the regime of Order 13A that a defendant who was not satisfied with the court's decision on the time of payment could apply to withdraw his admission on this ground alone. Nevertheless, the Court could exercise discretion under Order 13A rule 2(3) having regard to the circumstances of individual cases</p> <p>JA was requested to consider to add a proviso to the Explanatory Notes in Form No. 16 to alert defendants who intended to make admissions to money claims and propose payment terms that they would not normally be allowed to resile from their admissions if his proposal had not been accepted by the plaintiff</p>	<b>JA to follow up</b>
004417 - 004512	Chairman Administration	Form No. 16A - Request for judgment (admission of liquidated amount)	

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
004513 - 004603	Chairman Administration Ms Miriam LAU	Form No. 16B - Reply to part admission of liquidated amount and request for judgment	
004604 - 004626	Chairman Judiciary Administration	Form No. 16C - Admission (unliquidated amount)	
004627 - 004645	Chairman Administration	Form No. 16D - Request for judgment (admission of unliquidated amount)	
004646 - 004706	Chairman Administration Ms Miriam LAU	Form No. 16E - Reply to admission of unliquidated amount and request for judgment	
004707 - 004749	Chairman Judiciary Administration	<u>New Order 13A</u>  rule 1 -interpretation	
004806 - 004901	Chairman Judiciary Administration	rule 2 - Making an admission	
004902 - 004938	Chairman Judiciary Administration	rule 3 - Period for making admission	
004939 - 005033	Chairman Judiciary Administration	rule 4 - Admission of whole of claim for liquated amount of money	
005034 - 005059	Chairman Judiciary Administration	rule 5 - Admission of part of claim for liquidated amount of money	
005100 - 005108	Chairman Judiciary Administration	rule 6 - Admission of liability to pay whole of claim for unliquidated amount of money	
005109 - 005120	Chairman Judiciary Administration	rule 7 - Admission of liability to pay claim for unliquidated amount of money where defendant offers a sum in satisfaction of the claim	
005121 - 005150	Chairman Judiciary Administration	rule 8 - Power of Court to give directions	
005151 - 005432	Chairman Judiciary Administration Ms Miriam LAU Administration	rule 9 - Request for time to pay	
005433 - 005626	Chairman Judiciary Administration Ms Miriam LAU	rule 10 - Determination of rate of payment by Court  The Chairman's view that it should be made clear in the rule and the relevant forms that the court would make a determination on payment terms taking into account the defendant's means	<b>JA to follow up</b>
005627 - 005758	Chairman Judiciary Administration Administration	rule 11 - Right of re-determination	

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
005759 - 005843	Chairman Judiciary Administration	rule 12 - Interest	
005844 - 005857	Chairman Judiciary Administration	rule 13 - Form for admission to be served with statement of claim or originating summons	
005858 - 005959	Chairman Judiciary Administration	rule 14 - Application of the Order	
010000 - 010542	Chairman Judiciary Administration	<u>Part 7 - Pleadings</u> (Division 1 - Recommendations 22 to 24) - Requiring defences to be pleaded substantively  Order 18 rule 13  JA was requested to consider whether the word "denial" in Order 18 rule 13(5) should be replaced by the word "non-admission"	<b>JA to follow up</b>
010543 - 010721	Judiciary Administration	<u>Part 7 - Pleadings</u> (Division 2 - Recommendations 26 -32 and 35) - Requiring a pleading to be verified by a statement of truth  Order 18 rules 2 and 3	
010722 - 010836	Chairman Judiciary Administration Ms Miriam LAU	Order 18 rule 12A	
010837 - 010928	Judiciary Administration Chairman	Order 18 rules 20 and 20A	
010929 - 010958	Judiciary Administration	Order 18 rules 23 and 24	
010959 - 011629	Chairman Ms Miriam LAU Judiciary Administration Mr Ronny TONG Administration	New Order 41A - Statements of truth  rule 1 (Interpretation) and rule 2 (Documents to be verified by statement of truth)  JA was requested to confirm in writing whether, for the purpose of Order 41A, pleadings included statements of claim  The Administration pointed out that the definition of 'pleading' was given in Order 1	<b>JA to follow up</b>
011630 - 011729	Mr Ronny TONG Chairman Judiciary Administration	JA was requested to consider setting out in the relevant forms for issuing a writ or an originating summons the requirement that the pleading should be verified by a statement of truth	<b>JA to follow up</b>



Time Marker	Speaker(s)	Subject(s)	Action required
011730 - 012627	Mr Ronny TONG Chairman Judiciary Administration Ms Miriam LAU	Members noted from paragraph 260 of the Final Report that a person who made a false statement in a document verified by a statement of truth faced possible proceedings for contempt of court, but not criminal prosecutions (Order 41A rule 9)	
012628 - 012927	Judiciary Administration Mr Ronny TONG Administration Chairman	In response to Mr Ronny TONG's enquiry on Order 41A rule 3(7), JA's explanation that as the list of persons/parties who could sign a statement of truth set out in Order 41A rule 3 was not exhaustive, provision was made in rule 3(7) to allow further additions to be made to the list through practice directions, as was done in the UK	
012928 - 013051	Chairman Judiciary Administration Ms Miriam LAU Administration	Order 41A rule 3 - Signing of statement of truth	
013052 - 013820	Judiciary Administration Chairman Administration Ms Miriam LAU	Order 41A rule 4 (Effect of statement of truth) and rule 5 (Form of statement of truth)  In response to Ms Miriam LAU's enquiry, JA informed that if a legal representative who had signed a statement of truth on behalf of a party and it was subsequently found out that the party had made a false statement without an honest belief in its truth, there would not be any legal consequence, such as risk of contempt proceedings, for the legal representative so long as he had met the requirements stipulated in rule 4(3)(a) to (c). JA was requested to provide a written response on the possible consequences for a legal representative if he had failed to fulfill the requirements specified in rule 4(3)(a) to (c)	<b>JA to follow up</b>
013821 - 013837	Chairman Judiciary Administration	Order 41A rule 6 - Failure to verify pleading	
013838 - 013850	Judiciary Administration	Order 41A rule 7 - Failure to verify witness statement or expert report	
013851 - 013903	Judiciary Administration	Order 41A rule 8 - Power of Court to require document to be verified	
013904 - 013916	Judiciary Administration	Order 41A rule 9 - False statements	
013917 - 013938	Judiciary Administration	Order 41A rule 10 - Transitional arrangement	
013939 - 014142	Chairman Judiciary Administration	Order 18 rule 12 (3A) and (3B)	

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
014143 - 014757	Ms Miriam LAU Chairman Administration	JA was requested to clarify whether a statement of truth could be filed separately from the pleading that it verified, and if so, whether any special procedure was required	<b>JA to follow up</b>
014758 - 015146	Chairman Judiciary Administration Administration	Order 20 rule 8(1) and (1A), rule 9(2) and rule 13	
015147 - 015229	Chairman Judiciary Administration	Order 38 rule 2A(4)	
015230 - 015328	Judiciary Administration Chairman Ms Miriam LAU	Order 38 rule 37A	
015329 - 015355	Chairman Judiciary Administration	<u>Part 7 - Pleadings</u> (Division 3 - Recommendations 33 and 34)  Order 18 rule 12(3A) and (3B) and Order 20 rule 8(1) and (1A)	
015356 - 015421	Chairman	Date of next meeting	

Council Business Division 2  
Legislative Council Secretariat  
 14 May 2008