

立法會
Legislative Council

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LC Paper No. CB(2)2704/07-08
(These minutes have been seen
by the Administration)

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

**Minutes of the 14th meeting
held on Tuesday, 20 May 2008, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon James TO Kun-sun
Hon Miriam LAU Kin-yee, GBS, JP
Hon LI Kwok-ying, MH, JP
Hon Ronny TONG Ka-wah, SC
- Public Officers attending** : Item I
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. Meeting with the Administration/Judiciary Administration

(LC Paper No. CB(2)1983/07-08(01) - A check-list of follow-up actions required of the Judiciary Administration/Administration (as at 16 May 2008)

LC Paper No. CB(2)1983/07-08(02) - Paper entitled "Response to issues raised at the Subcommittee meeting on 15 May 2008" provided by the Judiciary Administration

LC Paper No. CB(2)1000/07-08(01) - Paper entitled "Proposed amendments to RHC (Cap. 4A)" 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)1847/07-08(03) - Paper entitled "Revised Part 23 - Judicial Review" provided by the Judiciary Administration)

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

Revised Order 53 - Judicial Review

2. The Subcommittee noted the Judiciary's proposal to remove all requirements relating to "interested parties" from the revised Order 53 [LC Paper No. CB(2)1983/07-08(02)] having regard to members' concerns. Members, however, did not agree that such requirements should be removed altogether, as they did not object in principle to the proposal of requiring applicants for leave for judicial review to serve on interested parties with a view to expediting the proceedings by involving interested parties at an earlier stage. Rather, their concern was about the added obligations imposed on applicants by the rules concerning interested parties such as Order 53 rule 4A(2). The Judiciary Administration agreed to relay members' views and concerns to the Steering Committee for further consideration (For details, please refer to the Annex).

Judiciary
Admin

II. Any other business

Date of reporting to the House Committee

3. The Subcommittee agreed that, subject to the revised amendments to be proposed to the draft subsidiary legislation which would be circulated to members for consideration, the Subcommittee would report to the House Committee on 13 June 2008.

Action

(Post-meeting note: The revised amendments to the Rules of the High Court provided by the Judiciary Administration were circulated to members vide LC Paper No. CB(2)2075/07-08 on 27 May 2008.)

4. The Subcommittee further agreed to cancel the meetings originally scheduled to be held on 3, 10 and 12 June 2008.
5. On behalf of the Subcommittee, the Chairman thanked the Administration and the Judiciary Administration for their assistance in the scrutiny work.
6. The meeting ended at 9:04 am.

Council Business Division 2
Legislative Council Secretariat
30 July 2008

**Proceedings of the 14th meeting of the
Subcommittee on Draft Subsidiary Legislation
Relating to the Civil Justice Reform
on Tuesday, 20 May 2008, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000630 - 000729	Chairman	Judiciary Administration (JA)'s response to issues raised at the meeting on 15 May 2008 [LC Paper No. CB(2)1983/07-08(02)]	
000730 - 000817	Chairman Judiciary Administration	Section A (para 2) - Transitional provisions	
000818 - 001225	Chairman Judiciary Administration Mr Ronny TONG	Section B (para 3) - Procedural steps for cases commenced by originating summonses	
001226 - 002614	Judiciary Administration Chairman Ms Miriam LAU Administration	<p>Section C (paras 4 to 6) - Revised Part 23: Judiciary Review</p> <p>JA's advice that in view of the Subcommittee's concerns about the requirements relating to "interested parties" in the revised Order 53 and having regard to the existing practice, the Steering Committee had decided to remove all such requirements from the revised Order 53</p> <p>The Chairman pointed out that she did not object in principle to the proposal of requiring applicants for leave for judicial review to serve on interested parties with a view to expediting the proceedings by involving interested parties at an earlier stage. She was however concerned about the added obligations imposed on the applicant by the rules such as the requirement under Order 53 rule 4A(2) that the applicant should serve the order granting leave to all interested parties within 14 days. In her view, such arrangements should be dealt with by way of court directions so as to allow flexibility to cater for the circumstances of individual cases. As such, she did not consider it necessary to remove all requirements in the revised Order 53 relating to "interested parties". Instead, amendments should be made to the rules to address members' concerns</p> <p>Ms Miriam LAU shared the Chairman's views and suggested that the revised Order 53 rule 3(2)(a)(iv) be amended by adding the words 'known to the applicant' at the end of the sentence</p> <p>JA agreed to relay members' views to the Steering Committee for consideration</p>	JA to follow up

Time Marker	Speaker(s)	Subject(s)	Action required
002615 - 002700	Chairman	Check list of follow-up actions prepared by the Legislative Council Secretariat [LC Paper No. CB(2) 1983/07-08(01)]	
002701 - 003105	Chairman Ms Miriam LAU	Circulation of revised amendments to the draft rules to members for consideration Date of reporting to the House Committee	
003106 - 003156	Chairman Ms Miriam LAU	Cancellation of meetings on 3, 10 and 12 of June 2008 Chairman's expression of thanks to the Administration and JA for their assistance in the scrutiny work	
003157 - 003405	Ms Miriam LAU Judiciary Administration Chairman	JA would consult the two legal professional bodies to ascertain their progress on preparation and training for the implementation of the Civil Justice Reform and report to the Panel on Administration of Justice and Legal Services before the commencement of the subsidiary legislation	

Council Business Division 2
Legislative Council Secretariat
30 July 2008