

CJRS 7/2008

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

**Assistance to Unrepresented Litigants**

**Purpose**

On behalf of the Judiciary, the Judiciary Administration presents this paper, which sets out the Judiciary's assessment on the impact of the proposed procedural changes in the Civil Justice Reform ("CJR") on unrepresented litigants and the assistance available to them.

**Background**

2. At the Subcommittee meeting on 29.2.2008, Members expressed concern that the proposed procedural changes in CJR may create difficulties for unrepresented litigants. The Judiciary was requested to assess the impact of the proposed changes on unrepresented litigants and provide information on the assistance available to them.

**Present Position**

3. The Judiciary is aware of the potential problems encountered by unrepresented litigants and is committed to providing assistance and facilities to enable them to deal with the applicable procedures in the conduct of their cases. Of course, the Judiciary is mindful of the fundamental principle that it must be and must be seen to be fair and impartial in adjudicating disputes when rendering assistance to unrepresented litigants.

4. In the past three years from 2005 – 2007, on average, about 39% of the contested civil proceedings in the High Court (including the Court of First Instance, "CFI" and the Court of Appeal, "CA"), and about 51% of those in the District Court ("DC") involved unrepresented litigants. The yearly breakdown is as follows -

Level of Court	Percentages of Contested Proceedings Involving Unrepresented Litigants*		
	2005	2006	2007
High Court (including trials and appeals in the CFI and the CA)	41%	37%	38%
District Court (Trials)	54%	52%	47%

\* “Proceedings involving unrepresented litigants” mean those in which at least one party is unrepresented.

## **Existing Arrangements for Unrepresented Litigants**

### ***Procedural Arrangements***

5. Currently, Masters at the CFI will give directions to unrepresented litigants at the stages of summons for directions or the checklist review. At the DC, Masters usually hold directions hearing on their own motion pursuant to Practice Direction 27 for cases involving unrepresented litigant(s). These procedural arrangements enable the Court to explain to unrepresented parties the terms of the orders or directions to be made and the steps they have to take before the case can be fixed for trial.

### ***Administrative Arrangements***

6. Administratively, the Resource Centre for Unrepresented Litigants (“Resource Centre”) has been in place since 2003 to provide assistance to unrepresented litigants, who are parties to or about to commence civil proceedings in HC or DC. Having regard to the fundamental principles as set out in paragraph 3 above, the Court cannot act as lawyers for the unrepresented litigants, giving legal advice or acting as advocate. Staff of the Resource Centre will not give legal advice or make any comments on the merits of the case. The assistance provided at the Resource Centre is therefore confined to procedural matters only. In the past three years from 2005-2007, the number of use of the facilities and services at the Resource Centre is set out below -

Facility / Service	No. of Use		
	2005	2006	2007
General Counter enquiries	3 877	4 784	9 856
Collection of brochures on civil proceedings	265	347	267
Collection of court forms	963	1 863	4 368
Computer facilities for legal information	190	617	899
Viewing of videos on court procedure	27	31	8
Photocopying service	5 974 pages	10 396 pages	57 074 pages
Telephone enquiries	2 746	2 979	3 142
Access to website	154 404 hits	266 866 hits	289 431 hits

## Changes under the CJR

### *Procedural Arrangements*

7. The existing procedural arrangements providing directions to unrepresented litigants as set out in paragraph 5 above would largely remain unchanged under the CJR. Under the new Order 25, the existing “summons for directions”, “checklist review” and “directions hearings” would be called “case management summons” (“CMS”) or “case management conference” (“CMC”). CMS is expected to deal with paper directions, whilst CMC would require attendance by the parties. The CMS and CMC will help to guide and focus the unrepresented parties on the preparations and the time frame for bringing the action to trial. It is also in the interest of the other represented party that the case is properly prepared for trial. Together with the underlying objectives and the greater case management powers under the proposed Orders 1A and 1B, the Court would be better equipped to facilitate and enhance the conduct of proceedings involving unrepresented litigants.

### *Administrative Arrangements*

8. Administratively, the facilities in the Resource Centre will be reviewed and updated to complement the changes to the procedure. The Judiciary will also produce explanatory materials on court procedure (including pamphlets, videos and information on the internet) to help unrepresented litigants understand the revised or new procedures.

Training will also be given to the staff, including the staff manning the Resource Centre, to familiarize them with the new Rules and procedure.

### **Assessment of the Impact of CJR on Unrepresented Litigants**

9. For the majority of the unrepresented litigants, they are not legally trained nor are they repeated court users. Unfamiliarity with the rules and procedure of civil litigation is inevitable. This will be the case with or without the CJR.

10. It is also generally recognized that many of the rules and procedure for civil litigation were not designed with the unrepresented litigants in mind. It is also a fact that many unrepresented litigants find understanding and complying with the existing rules and procedure a challenging task. Given that they are not legally trained, this is again inevitable.

11. The Judiciary does not believe that the CJR changes will make civil litigation more complex nor will they make it less advantageous for unrepresented litigants in the conduct of proceedings. The Judiciary will continue to provide suitable assistance to unrepresented litigants through procedural and administrative arrangements, whilst upholding the fundamental principle that it must be and must be seen to be fair and impartial in adjudicating disputes.

**Judiciary Administration**  
**March 2008**