



Submissions to the Subcommittee on Subsidiary Legislation Relating to the Civil Justice Reform (“CJR”)

The Subcommittee has asked the Law Society to provide information on its plan to provide training programmes to practitioners for the implementation of CJR in April 2009. The Law Society would like to provide the following information:

1. Proposals on Structured CJR Training 2008-2009

Objective:

To provide a series of lectures to prepare legal practitioners for the implementation of the CJR. The target date for the legislation to come into force is 2 April 2009.

Training:

The training offered by the Law Society will be conducted by way of a series of lectures ranging from three-hour to six-hour modules.

Teaching Methods:

The teaching techniques will be mainly in the form of lectures to provide practitioners with the information on the changes to the High Court Rules (“RHC”) and civil practice. Workshop style may be used for conducting individual sessions as recommended by the presenters where appropriate.

Level of Instructions:

The courses will be conducted as an updating series at intermediate level, for practitioners who have prior knowledge of litigation.

Trainers:

Judges, judicial officers, academics, solicitors and barristers.

Training Target:

The Law Society will aim to offer the structured CJR training to all its practising members, i.e., about 6,000 solicitors, by the end of March 2009.

Course Structure & Timeframe:

Each series of training will comprise of 6 modules with details as set out below:

Module 1: Case management

- (1) Introduction of the “underlying objectives” (Order 1A)
- (2) Introduction of express case management powers (Order 1B)

- (3) Summons for Directions replaced by Case Management summons and conference

Module 2: Originating process and pleadings

- (4) Abolition of petitions and originating motions for proceedings governed by the RHC
- (5) Form of admission to be served with Statement of Claim or originating summons (Order 13A rule 13)
- (6) Bare denials will no longer be permitted in a defence under the proposed RHC (Order 18 rule 13(5))
- (7) Pleadings, particulars, amendments etc all will all be verified by “statement of truth” (Order 18 rule 20A, Order 20 rule 12, Order 41A)

Module 3: Offers to settle

- (8) Replacement of existing payment into court procedure with a new Order 22 providing for sanctioned offers and sanctioned payments with enhanced costs and interest consequences

Module 4: Evidence and trial

- (9) Express power to limit number of witnesses and time for examination, and oral submissions (Order 35 rule 3A)
- (10) Power to order parties to appoint single joint expert (Order 38 rule 4A)

Module 5: Appeals

- (11) New requirement of leave for all interlocutory appeals to Court of Appeal (High Court Ordinance, s 14AA)

Module 6: Costs

- (12) Extension of the power to order costs against solicitors to Counsel (Order 62 rule 8)
- (13) Express provision for summary assessment of costs of interlocutory applications (Order 62 rule 9A)
- (14) Extension of existing power to tax bill of costs without a hearing

On the assumption that the legislation is passed in July 2008, the Law Society will aim to offer 3 to 4 series of lectures each month commencing in the last quarter of 2008 until April 2009, subject to review from time to time, and having regard to the actual demands.

The maximum capacity for each module will be 300 participants. The Law Society is confident it would be able to meet its training target as detailed above. Training after April 2009 will continue but will be tailor-made to meet the actual demands.

We also note the Judiciary has started to “test run” some of the reforms such as Gross Sum Assessments and the new taxation procedures, including revised format of the taxation bill after consultation with the Law Society.

2. Cost to the Profession

The Law Society will consider seeking support to defray the cost of retraining from the Law Society Educational Trust Fund.

It should be noted that all solicitors and trainee solicitors must comply with the Continuing Professional Development Rules (“CPD”), and attendance at CPD courses will not involve any additional financial burden as practitioners will have the opportunity of selecting courses on the CJR to fulfill their CPD requirements.

The Law Society of Hong Kong

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