

CIVIL JUSTICE (MISCELLANEOUS AMENDMENTS) BILL 2007

COMMITTEE STAGE

Amendments to be moved by the Chief Secretary for Administration

- | <u>Clause</u> | <u>Amendment Proposed</u> |
|---------------|--|
| 3 | In the proposed section 52B, by adding -
"(3A) A reference to costs in subsection (3) (b) and (c) is a reference to the costs of and incidental to the proceedings commenced under subsection (2) or transferred to the Court of First Instance under section 53B of the District Court Ordinance (Cap. 336).". |
| 5 | In the proposed section 53A, by adding -
"(3A) A reference to costs in subsection (3) (b) and (c) is a reference to the costs of and incidental to the proceedings commenced under subsection (2) or transferred to the Court under section 52C of the High Court Ordinance (Cap. 4).". |
| 10 | In the proposed section 21N(1) (b), by deleting "or arbitral tribunal". |
| New | By adding immediately after clause 15 -
"15A. Powers of the Court exercisable before commencement of action |

ALL PASSED

Section 47D(1) is amended by repealing "for personal injuries or arising out of the death of a person".

New By adding immediately after clause 16 -

"16A. Provisions supplementary to sections 41 and 42

Section 43(3) is repealed.

16B. Application to Government of sections 41 to 44

Section 45(1) is amended by repealing "involving a claim in respect of personal injuries to a person or in respect of a person's death".

New By adding immediately after clause 17 -

"17A. Application to Government of sections 47A to 47D

Section 47E(1) is amended by repealing "for personal injuries or arising out of the death of a person".

21 (a) In the proposed section 14AA(4)(b), by deleting "compelling reason" and substituting "reason in the interests of justice".

(b) In the proposed section 14AA, by adding -
"(5) This section does not apply in relation to an interlocutory judgment or order of the Court of First Instance made before the

ALL PASSED

commencement of this section."

25 In the proposed section 63A(2)(b), by deleting
"compelling reason" and substituting "reason in
the interests of justice".

New By adding -

"PART 10A
RULES OF COURT

High Court Ordinance

28A. Section added

The High Court Ordinance (Cap. 4) is
amended by adding -

**"55D. Rules as to costs
and interest**

(1) Notwithstanding sections 49
and 52A, the power to make rules of court
under section 54 includes power to make
provision for enabling the Registrar, in
such circumstances as may be specified in
the rules, to -

- (a) disallow all or part of
any costs to be taxed
pursuant to a costs order
made by the Court of First
Instance or the Court of
Appeal;

ALL PASSED

(b) disallow all or part of any interest otherwise payable under section 49 on taxed costs, or reduce the period for which such interest is payable or the rate prescribed in section 49 at which such interest is payable; and

(c) increase the rate prescribed in section 49 at which interest on taxed costs or costs of taxation is payable.

(2) Any rules made by virtue of this section may include such incidental, supplementary and consequential provisions as the Rules Committee may consider necessary or expedient."

District Court Ordinance

28B. Section added

The District Court Ordinance (Cap. 336) is amended by adding -

"72CA. Rules as to costs and interest

(1) Notwithstanding sections 50 and 53, the Rules Committee may make

ALL PASSED

rules of court for enabling the Registrar, in such circumstances as may be specified in the rules, to -

- (a) disallow all or part of any costs to be taxed pursuant to a costs order made by the Court;
- (b) disallow all or part of any interest otherwise payable under section 50 on taxed costs, or reduce the period for which such interest is payable or the rate prescribed in section 50 at which such interest is payable; and
- (c) increase the rate prescribed in section 50 at which interest on taxed costs or costs of taxation is payable.

(2) Rules made under this section may include incidental, supplementary and consequential provisions that the Rules Committee considers expedient.

(3) In this section, "Registrar" (司法常務官) includes a Master."

ALL PASSED

New By adding -

"32A. Decisions of Tribunal final

Section 11 is amended -

(a) in subsection (2) -

(i) by adding "section 11AA and" after "Subject to";

(ii) by repealing "determination or order" where it twice appears and substituting "judgment, order or decision";

(b) in subsection (4), by repealing "of the making of the determination or order appealed against" and substituting "on which leave to appeal is granted under section 11AA".

32B. Sections added

The following are added immediately after section 11 -

"11AA. Leave to appeal

(1) Subject to subsection (2), no appeal may be made under section 11(2) unless leave to appeal has been granted

ALL PASSED

by the Tribunal or the Court of Appeal.

(2) Subject to subsection (4), an appeal lies as of right to a presiding officer from a judgment, order or decision of a registrar.

(3) An appeal under subsection (2) is subject to rules made under section 10(3).

(4) Where rules made under section 10(3) provide that an appeal from a specified judgment, order or decision of a registrar lies to the Court of Appeal, the appeal may be made to the Court of Appeal with leave of a registrar or the Court of Appeal.

(5) Leave to appeal may be granted -

- (a) in respect of a particular issue arising out of the judgment, order or decision; and
- (b) subject to such conditions as the Tribunal, the Court of Appeal or the registrar hearing the application for leave considers necessary in order to secure the just,

ALL PASSED

expeditious and economical
disposal of the appeal.

(6) Leave to appeal shall not be granted unless the Tribunal, the Court of Appeal or the registrar hearing the application for leave is satisfied that -

- (a) the appeal has a reasonable prospect of success; or
- (b) there is some other reason in the interests of justice why the appeal should be heard.

(7) This section does not apply in relation to a judgment, order or decision of the Tribunal or a registrar of the Tribunal made before the commencement of this section.

(8) In this section, "registrar" (司法常務官) includes a deputy registrar or assistant registrar of the Tribunal.

**11AB. Decision on leave to
appeal final**

No appeal lies from a decision of the Court of Appeal as to whether or not leave to appeal to it should be granted."."

ALL PASSED

33 In the proposed section 12(7), by deleting
"Subject to" and substituting "Notwithstanding
subsection (1) and section 12C but subject to".

34 (a) In the heading, in the English text, by
deleting "**Section**" and substituting
"**Sections**".

(b) In the English text, by deleting "The
following is added" and substituting "The
following are added".

(c) By adding immediately after the proposed
section 12A -

**"12B. Interest on claims for
debt and damages**

(1) In proceedings (whenever
instituted) before the Tribunal for the
recovery of a debt or damages there may be
included in any sum for which judgment is
given simple interest, at such rate as the
Tribunal thinks fit or as rules made under
section 10(3) may provide, on all or any part
of the debt or damages in respect of which -

- (a) judgment is given; or
- (b) payment is made before
judgment.

(2) Interest under subsection (1) may
be awarded for all or any part of the period
between the date when the cause of action
arose and -

ALL PASSED

- (a) in the case of any sum paid before judgment, the date of the payment; and
- (b) in the case of the sum for which judgment is given, the date of the judgment.

(3) Where -

- (a) there are proceedings (whenever instituted) before the Tribunal for the recovery of a debt; and
- (b) the defendant pays the whole debt to the plaintiff (otherwise than in pursuance of a judgment in the proceedings),

the defendant is liable to pay the plaintiff interest, at such rate as the Tribunal thinks fit or as rules made under section 10(3) may provide, on all or any part of the debt for all or any part of the period between the date when the cause of action arose and the date of the payment.

(4) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs.

(5) Interest under this section may be calculated at different rates in respect of different periods.

ALL PASSED

(6) Subsections (1) and (3) are subject to rules made under section 10(3).

(7) In this section -
"defendant" (被告人) means the person from whom the plaintiff seeks the debt or damages;
"plaintiff" (原告人) means the person seeking the debt or damages.

12C. Interest on judgments

(1) Subject to any other Ordinance, judgment debts carry simple interest on the aggregate amount of the debts, or on such part of the debts as for the time being remains unsatisfied, from the date of the judgment until satisfaction.

(2) Interest under this section is -
(a) at such rate as the Tribunal may order; or
(b) in the absence of such order, at such rate as may be determined from time to time by the Chief Justice by order.

(3) Interest under this section may be calculated at different rates in respect of different periods."

ALL PASSED