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Civil Justice Reform to Commence on April 2

The following is issued on behalf of the Judiciary:

In accordance with the Civil Justice (Miscellaneous Amendments) Ordinance 2008 (Commencement) Notice, the Civil Justice Reform (CJR) will be implemented from April 2. It aims to improve the cost-effectiveness of the civil justice system, make it more efficient and reduce unnecessary delay while ensuring fairness between the parties.

"The CJR marks a major milestone in the development of the civil justice system in Hong Kong," said the Honourable Chief Justice Andrew Li today (March 17).

"The long journey of the reform to improve the effectiveness of the system began nearly nine years ago with the establishment of the Working Party on Civil Justice Reform in February 2000. At every stage of the process, all stakeholders were consulted," said the Chief Justice.

Major Features of Civil Justice Reform

Under the CJR, important changes have been made to court rules and procedures. They include, amongst others:

- * giving the Court more extensive and flexible powers to manage the progress of cases;
- * streamlining and improving civil procedures;
- * encouraging and facilitating settlement; and
- * enabling judicial resources to be better distributed and utilised.

The CJR applies to civil proceedings of the High Court and the District Court. Some of the new rules and procedures also apply to the Lands Tribunal and the Family Court with modifications.

To Strengthen Case Management

Proper case management is a crucial and integral part of the CJR. One of the major goals of the CJR is to convert proceedings from being largely party-driven to proceedings being firmly controlled by the Court. The experience of party-driven litigation has led to some unsatisfactory features, such as too many interlocutory applications and proceedings lacking focus until a very late stage, resulting in delay and expense.

After the CJR, the Court will assume greater control of the proceedings from an early stage of litigation. This would ensure that cases are dealt with as expeditiously as is reasonably practicable.

To Streamline and Improve Civil Procedures

The CJR seeks to reduce the number of unnecessary and unmeritorious interlocutory applications. Over-use of such applications, among others, leads to additional delay and expense in litigation. Under the CJR, where desirable, the Court will be able to deal with interlocutory applications on paper without a hearing.

To further enhance efficiency, the CJR provides measures to encourage summary assessment of costs for interlocutory applications instead of taxation of costs, and conduct provisional taxation of costs by taxing masters on paper without an oral hearing.

The CJR also introduces an important filter regarding interlocutory appeals. There will be a requirement to obtain leave to appeal from interlocutory decisions of the Court of First Instance to the Court of Appeal.

To Encourage and Facilitate Settlement

The CJR has introduced new measures to facilitate earlier settlement of civil disputes. Among these are:

First, before the CJR, only the defendant may offer to settle a monetary claim by making payment into court.

After the CJR, a new regime of "sanctioned offers" and "sanctioned payments" will be introduced. Not only the defendant, but also the plaintiff can make an offer to settle the claim. There will be consequences in terms of costs and interest on costs where a party fails at trial to do better than the sanctioned offer or sanctioned payment.

Second, the CJR seeks to facilitate the parties resolving their disputes by means other than litigation in court. Alternative dispute resolution, including mediation, allows the parties to resolve their disputes in a less costly and more efficient manner.

Third, the CJR facilitates a defendant making admissions to a monetary claim at an early stage and making proposals regarding payment terms (such as payments by installment).

Fourth, the CJR extends the scope of application of pre-action discovery from personal injury or death claims to all types of cases. This will facilitate negotiations between intended parties before proceedings are instituted.

Fifth, a new proceeding called "costs-only proceedings" can be invoked when costs remains the only issue that remains unresolved. In such proceedings, the parties can seek to have the question of costs decided by the Court.

To Enable Judicial Resources to be Better Distributed and Utilised

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The changes made by the CJR will ensure a better utilisation of judicial resources.

Legislation and Preparation

"I am glad to note that with the many invaluable efforts and contributions from the Steering Committee on Civil Justice Reform and all other parties concerned, the necessary amendment legislation has been enacted, the detailed Practice Directions promulgated, and a series of preparatory work completed over the past years," the Chief Justice said.

Following close consultation with the legal professions and other interested parties, the main package of CJR legislative amendments was enacted by the Legislative Council under the Civil Justice (Miscellaneous Amendments) Ordinance 2008 and the related subsidiary legislation by July 2008.

To set out detailed court rules and procedures to effect the changes, a series of 24 Practice Directions were promulgated on or before February 12, 2009 by the Steering Committee on Civil Justice Reform, chaired by the Honourable Mr Justice Ma, the Chief Judge of the High Court (CJHC). The CJR related Practice Directions will come into effect on April 2, 2009, except for Practice Direction No. 31 on Mediation which will come into effect on January 1, 2010.

To prepare for the launch of the CJR, the Judiciary organised tailor-made training programmes for all Judges and Judicial Officers as well as a total of 430 support staff between September 2008 and March 2009. Refresher courses will also be conducted.

The Judiciary will deploy sufficient trained and experienced staff to answer enquiries at the High Court Registry, the District Court Registry and the Resource Centre for Unrepresented Litigants located in the High Court Building, Queensway.

The computer systems of the High Court and the District Court have been enhanced, while those of the Lands Tribunal and the Family Court have been updated.

To keep the public including court users informed of the CJR, a poster and a series of 13 information leaflets will be on display or distributed at the relevant court premises, and District Offices of the Home Affairs Department of the Administration.

These printed materials will be distributed to the two legal professional bodies, other organisations concerned and non-governmental organisations providing free legal advice.

The information leaflets will be made available at the Resource Centre for Unrepresented Litigants for the convenience of litigants in person. These materials will also be uploaded onto a revamped dedicated website on the CJR at www.civiljustice.gov.hk.

A video on CJR is under production. It will be shown at the Resource Centre and uploaded onto the CJR website as from April 2.

Topics covered by the 13 information leaflets are:

- (i) Civil Justice Reform : An Overview;
- (ii) What should be considered before taking legal action;

- (iii) What should be noted about civil proceedings;
- (iv) What are the stages in a civil action;
- (v) How to prepare for a hearing or trial;
- (vi) How is a trial or hearing conducted in court;
- (vii) What are Statements of Truth;
- (viii) How to shorten legal proceedings: Order 13A admissions in monetary claims;
- (ix) How to shorten legal proceedings: Sanctioned offers and sanctioned payments;
- (x) How to apply for judicial review;
- (xi) How to appeal;
- (xii) What is taxation of costs; and
- (xiii) Civil Justice Reform: Transitional Arrangements.

Implementation and Monitoring

"The success of the CJR would depend not only on the Judiciary, but also all stakeholders involved in the civil justice system. I hope all parties concerned will continue to work together to bring about a better system to serve our community, with a view to ensuring and improving access to justice at reasonable cost and speed," said the Chief Justice.

"With such an extensive scale of changes, I have established a committee to closely monitor the working of the reformed civil justice system and make suggestions to me to ensure its effective operation," he added.

The committee will be chaired by the CJHC, and will comprise judges, a barrister, a solicitor, representatives of the Department of Justice and the Legal Aid Department, and an experienced mediator. A membership list is attached at Annex.

Ends/Tuesday, March 17, 2009
Issued at HKT 14:30

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Membership List of Civil Justice Reform Monitoring Committee

- Chairman** : The Hon Mr Justice Ma, Chief Judge of High Court
(ex-officio)
- Members** : The Hon Mr Justice Lam
- The Hon Mr Justice Reyes
- The Hon Mr Justice Fung
- Ms Au-Yeung Kwai-yue, Queeny, Registrar, High Court
(ex-officio)
- His Honour Judge Li, Chief District Judge (ex-officio)
- His Honour Judge AU
- Mr Poon Siu-tung, Temporary Registrar, District Court (ex-officio)
- Miss Emma Lau, Judiciary Administrator
- Mr Wesley Wong, Senior Assistant Law Officer (Civil Law) (Member of the Department of Justice appointed in consultation with the Secretary for Justice)
- Mr Thomas Kwong, Deputy Director of Legal Aid (Litigation) (Member of the Legal Aid Department appointed in consultation with Director of Legal Aid)
- Mr Joseph Fok SC (Barrister appointed in consultation with the Chairman of the Hong Kong Bar Association)
- Mr Alex Lai (Solicitor appointed in consultation with the President of the Law Society of Hong Kong)
- Mr Chan Bing-woon (Member of the mediation community)