

立法會
Legislative Council

Ref : CB2/SS/1/09

LC Paper No. CB(2)434/09-10
(These minutes have been seen by
the Administration)

**Subcommittee on Rules of the High Court
(Amendment) Rules 2009**

**Minutes of the fourth meeting
held on Friday, 13 November 2009, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Dr Hon Margaret NG (Chairman)
Hon James TO Kun-sun
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon IP Wai-ming, MH
- Member absent** : Hon Paul TSE Wai-chun
- Public Officers attending** : Item I

Mr David LAU Kam-kuen
Principal Assistant Secretary for Security A

Ms Veronica WONG Hoi-yee
Assistant Secretary for Security A2

Mr Sunny CHAN Yuen-sun
Senior Assistant Law Draftsman
Department of Justice

Miss Selina LAU Suet-ching
Senior Government Counsel
Department of Justice

Mr John RIBEIRO
Chief Superintendent of Police (Narcotics Bureau)
Hong Kong Police Force

Mr Nelson CHENG Yiu-mo
Superintendent (Financial Investigation Group)
(Narcotics Bureau)
Hong Kong Police Force

Clerk in attendance : Miss Mary SO
Chief Council Secretary (2)5

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Miss Josephine SO
Senior Council Secretary (2)1

Ms Sandy HAU
Legislative Assistant (2)5

Action

I. Meeting with the Administration

[L.N. 186 of 2009, CB(2)121/09-10(02) to (05), CB(2)172/09-10(01) to (02), CB(2)265/09-10(01) and CB(2)277/09-10(01)]

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

2. The Administration was requested to provide a response in writing to the following issues raised by members at the meeting -

- (a) to consider amending the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (the Ordinance) to include the definition of "prescribed interest" in the Ordinance, instead of in the Rules of the High Court (Amendment) Rules 2009 (the Amendment Rules);
- (b) to provide information on whether, and if so, which existing legislation followed similar procedures for the Chief Executive (CE) to specify persons and property as terrorists, terrorist associates or terrorist property;
- (c) to consider amending the definition of "holder" in rule 1 of the new Order 117A or the content of other provisions in the Amendment Rules in which the definition appeared;

- (d) to consider redrafting rules 7 and 8 of the new Order 117A to make the procedures for applications to the Court of First Instance by CE to specify certain property as terrorist property more logical;
- (e) to consider the additional measure of posting a notice at the property where CE intended to make an application to specify the property as a "terrorist property" under section 5(1)(b) of the Ordinance; and
- (f) to consider the additional measure of serving a copy of the revocation order under section 5(5) of the Ordinance on all affected persons.

II. Date of next meeting

3. Members agreed to hold the next meeting on 16 November 2009 from 5:30 pm to 7:30 pm to continue scrutiny of the new Order 117A from rule 14.
4. There being no other business, the meeting ended at 10:30 am.

Council Business Division 2
Legislative Council Secretariat
2 December 2009

**Proceedings of the meeting of the
Subcommittee on Rules of the High Court (Amendment) Rules 2009
on Friday, 13 November 2009, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000204	Chairman Admin	Opening remarks	
000205 - 000742	Admin Chairman	The Administration considered that the existing definition of "prescribed interest" in the new Order 117A did not contravene any possible restriction provided for in, or implied from, the provisions of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (the Ordinance) (Paragraphs 2-6 of LC Paper No. CB(2)265/09-10(01))	
000743 - 001625	Chairman ALA2	Views of the Legal Service Division of the Legislative Council Secretariat on the validity and appropriateness of prescribing the definition of "prescribed interest" in the Rules of the High Court (Amendment) Rules 2009 (the Amendment Rules) instead of in the Ordinance (LC Paper No. LS11/09-10)	
001626 - 003357	Chairman Ms Miriam LAU ALA2 Mr Ronny TONG	The Administration was requested to consider amending the Ordinance to include the definition of "prescribed interest" in the Ordinance, instead of in the Amendment Rules	Admin to provide a response (paragraph 2(a) of the minutes refers)
003358 - 003715	Chairman Admin	The use of expedited originating summons under the new Order 117A (Paragraphs 7-10 of LC Paper No. CB(2)265/09-10(01))	
003716 - 004229	Admin Chairman ALA2	Procedures for the Chief Executive (CE) to specify persons and property as terrorists, terrorist associates or terrorist property (Paragraph 11 of LC Paper No. CB(2)265/09-10(01)) The Administration was requested to provide information on which existing legislation followed similar procedures for CE to specify persons and property as terrorists, terrorist associates or terrorist property	Admin to provide a response (paragraph 2(b) of the minutes refers)
004230 - 004902	Admin Chairman Ms Miriam LAU Mr Ronny TONG	Publication of a notice of intention to make an application under sections 5(1)(a), 5(1)(b) and 13 of the Ordinance (Paragraph 12 of LC Paper No. CB(2)265/09-10(01))	
004903 - 011149	Chairman Admin Mr LAU Kong-wah Mr Ronny TONG Mr James TO	<u>Continued scrutiny of the Amendment Rules</u> <i>Rule 6 - Ex parte application to specify property as terrorist property</i> The definition of "holder" was illogical in that the fact that the applicant could not reasonably	

Time marker	Speaker	Subject	Action required
		ascertain someone to be the holder of a property did not mean that the property was without a holder. The Administration was requested to consider amending the definition or the content of other provisions in the Amendment Rules in which the definition appeared.	Admin to provide a response (paragraph 2(c) of the minutes refers)
011150 - 011803	Mr James TO Admin Chairman ALA2	Rationale for using "holder" instead of "owner" in the new Order 117A	
011804 - 013746	Mr IP Wai-ming Admin Chairman Mr Ronny TONG Mr James TO ALA2	<i>Rule 7 - Inter partes application to specify property as terrorist Property</i> <i>Rule 8 - Additional affidavit procedure for application under section 5(1)(b)</i> The Administration was requested to consider redrafting rules 7 and 8 of the new Order 117A to make the procedures for applications to the Court of First Instance by CE to specify certain property as terrorist property more logical	Admin to provide a response (paragraph 2(d) of the minutes refers)
013747 - 014105	Mr James TO Admin Chairman	Mr James TO's suggestion of posting a notice at the property where CE intended to make an application to specify the property as a "terrorist property" under section 5(1)(b) of the Ordinance	Admin to provide a response (paragraph 2(e) of the minutes refers)
014106 - 014810	Admin Chairman Mr James TO	<i>Rule 9 - ex parte application for forfeiture of certain terrorist property</i> <i>Rule 10 - inter partes application for forfeiture of certain terrorist property</i> <i>Rule 11 - contents of affidavit in support for application under section 13 of the Ordinance</i> <i>Rule 12 - additional affidavit procedure for application under section 13 of the Ordinance</i>	
014811 - 015250	Chairman Admin Mr James TO	<i>Rule 13 - revocation of order specifying person as terrorist or terrorist associate or specifying property as terrorist property</i> Mr James TO's suggestion of serving a copy of the revocation order on all affected persons	Admin to provide a response (paragraph 2(f) of the minutes refers)
015251 - 020011	Chairman Admin Mr James TO	<i>Rule 14 - application under section 12A, 12B, 12C or 12G of the Ordinance</i> Date of next meeting	