

SC 101/33/11
LS/B/35/14-15
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By Fax (2501 4636)

10 July 2015

Ms Wendy CHEUNG
Assistant Judiciary Administrator (Development)
Judiciary
Lower Ground 2nd Floor
High Court Building
38 Queensway
Hong Kong

Dear Ms CHEUNG,

Hong Kong Court of Final Appeal Suitors' Funds Rules (L.N. 147)
High Court Suitors' Funds (Amendment) Rules 2015 (L.N. 148)
District Court Suitors' Funds (Amendment) Rules 2015 (L.N. 149)
Lands Tribunal (Suitors' Funds) Rules (L.N. 150)
Labour Tribunal (Suitors' Funds) (Amendment) Rules 2015 (L.N. 151)
Small Claims Tribunal (Suitors' Funds) (Amendment) Rules 2015 (L.N. 152)

I am scrutinizing the captioned rules with a view to advising Members on their legal and drafting aspects and would like to seek the following information or clarification:-

- (a) It is noted that the definitions of *fonds* in section 2 of L.N. 147, L.N. 151 and the Small Claims Tribunal (Suitors' Funds) Rules (Cap. 338D) do not refer to "securities". However, "securities" is included in the definitions of *fonds* under the High Court Suitors' Funds Rules (Cap. 4B), the District Court Suitors' Funds Rules (Cap. 336E) and L.N. 150. Please explain to Members the rationale for the aforesaid differences.

- (b) It is also noted that the definitions of *funds* in L.N. 147 and section 2 of Cap. 338D do not refer to "movable property". However, "movable property" is included in the definitions of *funds* under Cap. 4B, Cap. 336E, L.N. 150 and L.N. 151. Please explain to Members the rationale for the aforesaid differences.
- (c) It is noted that the definition of *suitors* (in section 57(3) of the High Court Ordinance (Cap. 4)) which is amended by section 23(5) of the Administration of Justice (Miscellaneous Provisions) Ordinance 2014 (Ord. No. 20 of 2014) does not appear in any of the suitors' funds rules of other courts or tribunals. Please explain to Members the rationale of the aforesaid differences.
- (d) It is noted that L.N. 147 does not provide for payment out or transfer of suitors' funds to any persons as legal personal representatives of a person named in an order specifically. However, there are such provisions in rule 11 of Cap. 4B, rule 11 of Cap. 336E, rule 12 of L.N. 150, rule 7 of Cap. 25D and rule 7 of Cap. 338D respectively. Please explain to Members the rationale for the aforesaid differences.
- (e) It is noted that in respect of an order directing the suitors' funds paid into court to be dealt with otherwise than by payment, withdrawal or investment, rule 12(1) of L.N. 147 does not refer to any dealing by way of "transfer" specifically. However, rule 14 of Cap. 4B, rule 14 of Cap. 336E and rule 15(1) of L.N. 150 refer to dealing with the suitors' funds otherwise than by way of "transfer". Furthermore, it appears that there are no similar specific provisions in Cap. 25D and Cap. 338D. Please explain to Members the rationale for the aforesaid differences.

Please let us have the relevant information in Chinese and English language by **24 July 2015**.

Yours sincerely,

(Evelyn LEE)
Assistant Legal Adviser

c.c. Legal Adviser
Senior Assistant Legal Adviser