

立法會
Legislative Council

LC Paper No. CB(4)338/15-16
(These minutes have been seen
by the Administration)

Ref : CB4/SS/20/14

**Subcommittee on Rules of the High Court (Amendment) (No. 3) Rules 2015
and Rules of the District Court (Amendment) Rules 2015**

**Minutes of first meeting held on
Thursday, 22 October 2015, at 4:30 pm
in Conference Room 2B of the Legislative Council Complex**

Members present : Hon Dennis KWOK (Chairman)
Hon Albert HO Chun-yan
Hon Abraham SHEK Lai-him, GBS, JP

**Public Officers
attending** : Agenda item II

Department of Justice

Ms Adeline WAN
Senior Assistant Solicitor General

Miss Tinny HO
Senior Government Counsel

Ms Karmen KWOK
Senior Government Counsel

Mr L K WONG
Government Counsel

Clerk in attendance : Mr Daniel SIN
Chief Council Secretary (4)3

Staff in attendance : Mr YICK Wing-kin
Assistant Legal Adviser 8

Ms Anki NG
Council Secretary (4)3

Action

I Election of Chairman

Mr Dennis KWOK was elected Chairman of the Subcommittee.

II Meeting with the Administration

- | | | |
|--------------------------------|----|---|
| (L.N. 175 of 2015 | -- | Rules of the High Court (Amendment) (No. 3) Rules 2015 (L.N. 175 of 2015) |
| L.N. 176 of 2015 | -- | Rules of the District Court (Amendment) Rules 2015 (L.N. 176 of 2015) |
| Ref: LP5004/4/15C Pt. 42 | -- | Legislative Council Brief on Rules of the High Court (Amendment) (No. 3) Rules 2015 and Rules of the District Court (Amendment) Rules 2015 issued by the Department of Justice in August 2015 |
| LC Paper No. LS80/14-15 | -- | Legal Service Division Report |
| LC Paper No. CB(4)69/15-16(01) | -- | Marked-up copy of the Rules of the High Court (Amendment) (No. 3) Rules 2015 and Rules of the District Court (Amendment) Rules 2015 prepared by the Legal Service Division (Restricted to members)) |

2. The Subcommittee deliberated (index of proceedings in the **Appendix**).

Legislative timetable

3. The Subcommittee completed its scrutiny work. Members generally supported the subsidiary legislation. Members noted that the Chairman would move a motion at the Council meeting of 4 November 2015 to extend the scrutiny period of the subsidiary legislation to 2 December 2015. The Subcommittee would submit a report to the House Committee at its meeting on 20 November 2015. Members also noted that the deadline for giving notice of motion to amend the subsidiary legislation at the Council meeting on 2 December 2015 was 25 November 2015.

III Any other business

4. There being no other business, the meeting ended at 4:49 pm.

Council Business Division 4
Legislative Council Secretariat
11 December 2015

**Proceedings of first meeting of the
Subcommittee on Rules of the High Court (Amendment) (No. 3) Rules 2015 and
Rules of the District Court (Amendment) Rules 2015
on Thursday, 22 October 2015, at 4:30 pm
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Election of Chairman			
000300 – 000330	Mr Albert HO Mr Abraham SHEK Mr Dennis KWOK	Election of Chairman	
Meeting with the Administration			
000331 – 000659	Chairman Administration	<p data-bbox="609 797 1350 837">Briefing by the Administration</p> <p data-bbox="609 869 1350 909"><u>L.N. 175 of 2015 and L.N. 176 of 2015</u></p> <p data-bbox="609 940 1350 1384">The Administration advised that the Legal Practitioners (Amendment) Ordinance 2012 (Ord. No. 22 of 2012) ("LPAO") was enacted by the Legislative Council ("LegCo") in July 2012 to introduce limited liability partnership ("LLP") for law firms in Hong Kong by adding a new Part IIAAA to the Legal Practitioners Ordinance (Cap. 159). The amendment had the effect of limiting the liability of innocent partners of LLP law firms, namely as regards partnership obligation arising from the provision of professional services by LLP and as a result of the default of the other partners of the firm.</p> <p data-bbox="609 1415 1350 1930">The Rules of the High Court (Amendment) (No. 3) Rules 2015 (L.N. 175 of 2015) and the Rules of the District Court (Amendment) Rules 2015 (L.N. 176 of 2015) were respectively made by the Rules Committee of the High Court under section 54 of the High Court Ordinance (Cap. 4) and the District Court Rules Committee under section 72 of the District Court Ordinance (Cap. 336). The main purpose of the Amendment Rules was to give effect to the relevant provisions in LPAO by prescribing court procedural rules for litigations as regards LLP. L.N. 175 of 2015 and L.N. 176 of 2015 would amend rule 5 of Order 81 of Cap. 4A and Cap. 336H respectively, mainly by adding a new paragraph (6) to the relevant rules.</p> <p data-bbox="609 1962 1350 2074">The Administration further advised members that the new Part IIAAA of Cap. 159 has the effect that a partner of a law firm which is an LLP is not, solely by</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>reason of being a partner of such firm, jointly or severally liable for any partnership obligation arising from a default of another partner. An innocent partner's interest in the partnership property might still be subject to the enforcement of a judgment or order given or made in the related legal proceedings against the law firm, but the innocent partner's personal assets would be protected and not be subject to the enforcement action in the relevant proceedings.</p>	
000700 – 000919	Chairman Administration	<p>The Chairman's enquiry and the Administration's response regarding the progress of passing other subsidiary legislation for the implementation of LPAO, including Limited Liability Partnerships (Top-up Insurance) Rules.</p> <p>The Chairman also enquired about the possible date for LPAO, L.N. 175 of 2015 and L.N. 176 of 2015 to come into operation. The Administration advised that both L.N. 175 of 2015 and L.N. 176 of 2015 would come into operation on the same date as LPAO, and LPAO would be brought into operation as soon as practicable after completion of the negative vetting of L.N. 175 of 2015 and L.N. 176 of 2015 by LegCo. The Administration had consulted the Law Society of Hong Kong on the commencement date of LPAO, and would aim at bringing LPAO into operation on 1 March 2016.</p>	
000920 – 001542	Chairman Administration	<p>Clause-by-clause examination of the Chinese text of the subsidiary legislation</p> <p><u>Rules 5(6) and 5(7) of Order 81 of Cap. 4A and Cap. 336H added</u></p> <p>In response to the Chairman, the Administration advised that the effect of adding rule 5(6) of Order 81 of Cap. 4A and Cap. 336H was that any execution to enforce a judgment or order given or made against a law firm which is an LLP might not issue separately against a partner who is protected under Part IIAAA of Cap. 159 from liability for the partnership obligation unless:</p> <ul style="list-style-type: none"> (a) such partner admitted in the pleading in the relevant proceedings that he is not protected under Part IIAAA of Cap. 159; or (b) such partner is adjudged by the court as not so protected. 	

Time marker	Speaker	Subject(s)	Action required
		<p>According to the new rule 5(6)(b)(ii), parties who have obtained a judgment or order given or made against a firm which is an LLP would be required to make an application to the court for leave to enforce the judgment or order against a partner who had not admitted in the pleading or been adjudged in the proceedings to be a partner not protected under Part IIAAA of Cap. 159 from liability for the partnership obligation.</p> <p><u>Rules 5(2) and 5(4) of Order 81 of Cap. 4A and Cap. 336H amended</u></p> <p>The Administration further advised that rules 5(2) and 5(4) of Order 81 of Cap. 4A and Cap. 336H were also slightly amended to accommodate the addition of the new rule 5(6) of Order 81 of Cap. 4A and Cap. 336H.</p>	
001543 – 001749	Chairman Mr Albert HO Administration	<p>Mr Albert HO's enquiry and the Administration's response regarding the meaning of "such a partner" in rule 5(6)(b) of Order 81 of Cap. 4A and Cap. 336H.</p> <p>Members raised no other query on the English version of the amendment.</p>	
001750 – 001910	Chairman Administration	Legislative timetable and extension of the scrutiny period.	
001911 – 001920	Chairman Administration	<p>Invitation of views</p> <p>Members agreed that it was unnecessary to invite public views on the Amendment Rules.</p>	