

**Note for Subcommittee on
The Rules of the District Court
District Court Civil Procedure (Fees)(Amendment) Rule 2000**

INTRODUCTION

The District Court Rules Committee made the Rules of the District Court and the District Court Civil Procedure (Fees) (Amendment) Rules at its meeting on 20 May 2000.

BACKGROUND

2. In early 1990s, the then Chief Justice appointed a Working Party under the chairmanship of the then Honourable Mr Justice Kempster, with representatives from the Bar Association and the Law Society, to consider and recommend amendments to the District Court Ordinance. One of the key recommendations of the Working Party was to encourage a greater flow of civil work into the District Court by raising its financial jurisdictional limits. The Working Party also recommended that the District Court Civil Procedure (General) Rules and the District Court Civil Procedure (Forms) Rules should be replaced by a new set of Rules modelled on the then Rules of the Supreme Court.

3. In October 1999, the Administration introduced to the Legislative Council the District Court (Amendment) Bill 1999 to implement the recommendations of the Kempster Working Party. The Bill was passed by the Legislative Council on 17 May 2000 and published in the Gazette on 19 May 2000. To tie in with the commencement of the District Court (Amendment) Ordinance, the Rules of the District Court (RDC) were made to provide a comprehensive procedural framework for actions involving both substantial and modest sum.

4. We intend to bring the District Court (Amendment) Ordinance and the new sets of Rules into operation at the same time in early September 2000 so that the legal profession and members of the public would have adequate time to familiarize themselves with the new civil procedural framework of the Court.

THE RULES

The Rules of the District Court

5. The following principles are adopted in drafting the new RDC:

- (a) the new Rules are largely modelled on the Rules of the High Court (RHC) where applicable;
- (b) Where further changes (including additions and amendments) have been made to the RHC since the adoption of the Kempster Report and where further changes to the RHC are being anticipated, such further changes were also taken into account in drafting the new RDC; and
- (c) Certain modifications to the RHC were introduced in selected areas to save costs and to maintain the flexibility for the District Court to deal with modest claims where parties are unrepresented. Most of such revisions were recommended by Kempster, but a few further revisions have been proposed since then to suit changing circumstances.

A concordance table (with detailed explanatory notes) setting out the similarities and differences between the RHC and the RDC is attached.

6. The few differences between RHC and RDC are summarized as follows:-

- (a) Streamlining of the originating process by omitting originating motion and petition [O.5, r.5 of the RHC];
- (b) Retention of the right for body corporate to act in person in the present District Court Ordinance [O.5A];
- (c) Retention of the current power of the court to order trial without pleadings on its own motion [O.18, r.21];
- (d) Retention of the current power of the court to frame issues for parties in lieu of pleadings [O.18, r.22];
- (e) Agreed or automatic directions, application for pre-trial review before setting down and automatic exchange of witness statement [O.23A];
- (f) Interrogatories only with leave of the court [O.26, r.1];
- (g) Retention of the current requirement for application to a District Judge for leave to appeal to the Court of Appeal [O.58];
- (h) Retention of the current requirement of certificate of counsel subject to dispensation in case of recovery over \$150,000 (1st Schedule to O.62); and
- (i) Retention of the procedure for dealing with judgment summons (O.90A).

7. Those rules in RHC relating to matters over which the District Court has no jurisdiction are omitted from the RDC. These include O.53 judicial

review; O.54 habeas corpus; O.55 appeals from tribunals; O.60A appeals from tribunals to Court of Appeal on point of law; O.61 cases stated from tribunals to Court of Appeal; O.69 service of foreign process; O.70 obtaining evidence for foreign court; O.71 reciprocal enforcement of judgments; O.73 arbitration proceedings; O.75 admiralty proceedings; O.76 contentious probate proceedings; and O.87 debenture holder's action.

District Court Civil Procedure (Fees) (Amendment) Rules

8. These Rules incorporate the necessary amendments adopted from the corresponding provisions in the High Court Fees Rules. The amendment to the description of the fee relating to application for pre-trial review is introduced to tie in with the procedure for pre-trial review in O.34 of the RDC.