



**CIVIL JUSTICE (MISCELLANEOUS AMENDMENTS) BILL 2007**  
**Further Submissions by the Law Society**

**1. Review of the proposed amendments to the High Court Rules**

The Law Society notes the Bills Committee's request for submissions on a proposal that the Bills Committee scrutinises the proposed amendments to the High Court Rules. It is the Law Society's view that responsibility for drafting and amending rules made under the High Court Ordinance and the District Court Ordinance rests exclusively with the statutory Rules Committees.

**2. Draft rules on "Wasted Costs Orders" and "Costs against a Non-Party"**

The Law Society wishes to advise the Bills Committee that it will be sending the following observations on the draft rules on "Wasted Costs Orders" and "Costs against a Non-Party" to the High Court and District Court Rules Committees:

**(a) Wasted Costs Orders**

The Steering Committee on Civil Justice Reform circulated a draft version of the proposed amendments to Order 62 rule 8 of the High Court Rules in its Consultation Paper. The Law Society supports the general principle of wasted costs orders against lawyers but the following points must be addressed in the draft rule:

- Orders should only be made in exceptional circumstances
- Orders should not be routine
- Order 62 rule 8 must clearly provide for a method of review or appeal of such orders
- The Judiciary should not regard the power to award wasted costs orders as one of its tools to enhance "case management of cases"
- When a lawyer successfully appeals against a wasted costs order, the issue of the successful Appellant's legal costs has to be addressed.

**(b) Costs Against Non Parties**

This is a new proposed amendment to the High Court Ordinance and so the Consultation Paper did not provide a draft rule on this proposal. The High Court Rules Committee should circulate its draft rule to the professional bodies as this provision could have a serious financial impact against a person who is not a party to the proceedings. We believe the rule must clearly provide standing and the procedures for a review or appeal by the Non-Party against such an order.

**The Law Society of Hong Kong**  
**Civil Litigation Committee**  
**22 June 2007**  
106990