

CJRB 12/2007

**Bills Committee on
Civil Justice (Miscellaneous Amendments) Bill 2007**

Proposed Committee Stage Amendments

Purpose

This paper sets out the Committee Stage Amendments (“CSAs”), which the Steering Committee on Civil Justice Reform (“the Steering Committee”) has proposed for introduction to the Civil Justice (Miscellaneous Amendments) Bill 2007 (“the Bill”).

Clause	Consideration and Content of Proposed CSAs
Part 2 – Costs-only Proceedings	
Clauses 3 and 5	<ul style="list-style-type: none"> - At the meeting on 30.5.2007, the Bills Committee requested the Judiciary Administration to review the drafting of the proposed section 52(B)(3)(b) and (c) of the High Court Ordinance (“HCO”) (Cap. 4) in relation to costs-only proceedings to reflect the policy intent that the reference to “costs” in the proposed section 52(B)(3)(b) and (c) referred to the costs of and incidental to the <u>costs-only proceedings</u>, but not the costs of and incidental to the <u>substantive dispute</u>. - Having reviewed the drafting of the relevant sections, the Steering Committee proposes that CSAs should be introduced to the proposed <u>section 52B of HCO</u> in Clause 3 and <u>section 53A of District Court Ordinance</u> (“DCO”) (Cap. 336) in Clause 5 to better reflect the policy intent.

Clause	Consideration and Content of Proposed CSAs
Part 4 – Interim Relief and Mareva Injunctions in Aid of Proceedings outside Hong Kong	
Clause 10	<ul style="list-style-type: none">- Having considered the views of the Working Group set up by the Department of Justice to consider proposals for reform of arbitration law, the Steering Committee agrees with the Working Group’s views that reference to “<i>arbitral tribunal</i>” in the proposed <u>section 21N(1)(b) of HCO</u> in Clause 10 is not necessary, because (i) Clause 10 is intended to deal with the grant of interim measures in aid of foreign <i>court proceedings</i>, whereas (ii) Clause 11 already amends section 2GC of the Arbitration Ordinance (“AO”) (Cap. 341) to deal with the grant of interim measures in aid of <i>arbitral proceedings</i>. - In view of the above, the Steering Committee proposes that CSAs should be introduced to delete the reference to “<i>arbitral tribunal</i>” from the proposed <u>section 21N of HCO</u> in Clause 10.
Part 8 – Leave to Appeal	
Clauses 21 & 25	<ul style="list-style-type: none">- At the meeting on 30.10.2007, the Bills Committee expressed concern that the phrase “<i>some other compelling reason</i>” in the proposed section 14AA(4)(b) of the HCO and the proposed section 63A(2)(b) of the DCO would import too high a threshold for obtaining leave to appeal, and requested the Administration/ Judiciary Administration to consider deleting the word “<i>compelling</i>” from the sections, such that the phrase would read “<i>some other reason why the appeal should be heard</i>”.

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	<ul style="list-style-type: none"> - Having considered the Bills Committee’s views, the Steering Committee considers that the phrase “<i>some other reason why the appeal should be heard</i>” would be too broad, and proposes that CSAs be introduced to amend the phrase to read, “<i>some other reason <u>in the interests of justice</u> why the appeal should be heard</i>”.
Part 12 – Lands Tribunal	
New	<ul style="list-style-type: none"> - For the reasons set out in paper CJRB 11/2007 on “<i>Proposed Introduction of a Leave Requirement for Appeals from the Lands Tribunal to the Court of Appeal</i>”, the Steering Committee proposes that CSAs should be introduced to section 11 of the Lands Tribunal Ordinance (Cap. 17) (“LTO”) to introduce a leave requirement for interlocutory and final appeals from the Lands Tribunal to the Court of Appeal, so that it can be ascertained that the appeal involves a question of law. - The grounds for granting leave would follow the wording proposed to be adopted for Part 8 above, i.e. (i) the appeal has a reasonable prospect of success or (ii) there is some other reason in the interests of justice why the appeal should be heard.
New Part	
New	<ul style="list-style-type: none"> - The Steering Committee has proposed certain amendments to Orders 62 and 62A of the Rules of the High Court (“RHC”) (Cap. 4A) to give certain powers to taxing masters, with a view to encouraging vigilance by the parties to proceed with

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	<p>taxation without delay. These amendments are in line with the objective of the CJR for a case to be dealt with as expeditiously as is reasonably practicable.</p> <p>- To pursue the proposed amendments to RHC Orders 62 and 62A, the Steering Committee proposes that enabling provisions should be introduced by way of CSAs to HCO. Corresponding amendments should be introduced to DCO.</p>

Proposed Way Forward

2. Subject to Members' views, the Administration will introduce CSAs to the Bill to implement the Steering Committee's proposals, together with necessary consequential.

Administration Wing
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November 2007