

立法會
Legislative Council

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LC Paper No. CB(2)2696/07-08
(These minutes have been seen
by the Administration)

**Subcommittee on Draft Subsidiary Legislation
Relating to the Civil Justice Reform**

**Minutes of the 13th meeting
held on Friday, 16 May 2008, at 10:45 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon James TO Kun-sun
Hon Miriam LAU Kin-ye, GBS, JP
Hon Ronny TONG Ka-wah, SC
- Member absent** : Hon LI Kwok-ying, MH, JP
- Public Officers attending** : Item I
Judiciary Administration
Miss Vega WONG
Assistant Judiciary Administrator (Development)
- The Administration
Department of Justice
Mr Wesley WONG
Senior Assistant Law Officer (Civil Law)
- Mr K F CHENG
Senior Assistant Law Draftsman
- Clerk in attendance** : Mrs Percy MA
Chief Council Secretary (2)3
- Staff in attendance** : Miss Kitty CHENG
Assistant Legal Adviser 5
- Ms Amy YU
Senior Council Secretary (2)3

Action

I. Meeting with the Administration/Judiciary Administration

(LC Paper No. CB(2)1928/07-08(03) - Paper entitled "Appeals to the Court of Appeal Re : totally unmeritorious leave applications" provided by the Judiciary Administration

LC Paper No. CB(2)1000/07-08(01) - Paper entitled "Proposed amendments to RHC (Cap. 4A)" together with the following Annexes -

Annex A - a summary table setting out the RHC Orders affected and the relevant Amendment Rules in the Draft RHC

Annex B - the Draft RHC

Annex C - the marked-up version of the provisions affected by the amendments in the Draft RHC

LC Paper No. CB(2)1491/07-08(01) - Paper entitled "Proposed amendments to RDC (Cap. 336H)" together with the following Annexes -

Annex A - Comparison table between the latest Draft RDC and the latest Draft RHC

Annex B - the latest Draft RDC

Annex C - the marked-up version of the latest draft RDC

LC Paper No. CB(2)1491/07-08(02) - Paper entitled "Proposed Amendments to the Lands Tribunal Rules (Cap. 17A)"

LC Paper No. CB(2)1491/07-08(03) - Paper entitled "Proposed Amendments to the High Court (Fees) Rules (Cap. 4D), District Court Civil Procedure (Fees) Rules (Cap. 336C), High Court Suitors' Funds Rules (Cap. 4B), and District Court Suitors' Funds Rules (Cap. 336E)"

The Subcommittee deliberated (index of proceedings attached at **Annex**).

2. The Subcommittee had completed scrutiny of the proposed amendments to the Rules of the High Court (Cap. 4A) and the Rules of the District Court (Cap. 336H). The Subcommittee requested the legal adviser to assist in the scrutiny of the proposed amendments to the Lands Tribunal Rules (Cap. 17A) and the four sets of Rules relating to fees, *viz.* the High Court (Fees) Rules (Cap. 4D), District Court Civil Procedure (Fees) Rules (Cap. 336C), High Court Suitors' Funds Rules (Cap. 4B), and District Court Suitors' Funds Rules (Cap. 336E).

3. The Subcommittee noted the Judiciary's plan to gazette all relevant subsidiary legislation relating to the Civil Justice Reform on 6 June 2008 and agreed that the revised amendments to the draft rules (English version) together with the legal adviser's comments (if any) would be circulated to the Subcommittee for consideration around 26 May 2008.

Action

II. Any other business

4. The Chairman reminded members that the next meeting would be held on Tuesday, 20 May 2008 at 8:30 am.
5. The meeting ended at 11:45 am.

Council Business Division 2
Legislative Council Secretariat
29 July 2008

**Proceedings of the 13th meeting of the
Subcommittee on Draft Subsidiary Legislation
Relating to the Civil Justice Reform
on Friday, 16 May 2008, at 10:45 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000142 - 000442	Chairman	Opening remarks Work plan of the Subcommittee	
000443 - 000630	Chairman Judiciary Administration Mr Ronny TONG	Judiciary Administration (JA)'s paper entitled "Appeals to the Court of Appeal Re: Totally Unmeritorious Leave Applications" [LC Paper No. CB(2)1928/07-08(03)] <u>Order 59 rule 2A(8) of the draft Rules of the High Court (RHC) - Leave to appeal to the Court of Appeal</u>	
000631 - 000905	Mr Ronny TONG	Mr TONG remained of the view that an applicant for leave to appeal should not be deprived of the right to an oral hearing	
000906 - 001213	Chairman Judiciary Administration	While sharing Mr TONG's views, the Chairman considered the provision (Order 59 rule 2A(8)) acceptable on the balance, as (i) it applied only to interlocutory decisions, and (ii) there was provision in Order 59 rule 2C(1) for a party to make a fresh application where his application was determined (with or without a hearing) by a single Justice of Appeal	
001214 - 001642	Mr James TO Chairman Mr Ronny TONG Judiciary Administration Administration	Mr TO considered the provision acceptable as it only dealt with appeals which were "totally unmeritorious"	
001643 - 002346	Chairman Judiciary Administration	Scrutiny of the proposed amendments to the Rules of the District Court (RDC) (Cap. 336H) [LC Paper No. CB(2)1491/07-08(01)] Briefing by JA	
002347 - 002459	Chairman	Annex A to LC Paper No. CB(2)1491/07-08(01) - Comparison table between the latest Draft RDC and the latest Draft RHC	
002500 - 002527	Judiciary Administration	Order 1 - Citation, etc., Application, Interpretation and Forms	

Time Marker	Speaker(s)	Subject(s)	Action required
002528 - 002541	Chairman Judiciary Administration	Order 3 - Time	
002542 - 002604	Chairman Judiciary Administration	Order 4 - Transfer and Consolidation of Proceedings	
002605 - 003036	Chairman Judiciary Administration Mr James TO Administration Ms Miriam LAU	Order 5 - Mode of Beginning Civil Proceedings in Court JA's explanation that Order 5 rule 6 of RHC (which required leave to be obtained for a body corporate to be represented by one of its directors) was omitted in RDC in view of Order 5A of RDC which provided for the right of a director to represent a limited company	
003037- 003216	Chairman Judiciary Administration	Order 6 - Writs of Summons: General Provisions	
003217 - 003254	Chairman Judiciary Administration	Order 7 - Originating Summonses: General Provisions	
003255 - 003318	Chairman Judiciary Administration	Order 8 - Originating and Other Motions: General Provisions	
003319 - 003337	Chairman Judiciary Administration	Order 9 - Petitions: General Provisions	
003338 - 003359	Chairman Judiciary Administration	Order 11 - Service of Process, etc., out of Jurisdiction	
003400 - 003421	Chairman Judiciary Administration	Order 12 - Acknowledgement of Service of Writ or Originating Summons	
003422 - 003501	Chairman Judiciary Administration	Order 18 - Pleadings	
003502 - 003525	Chairman Judiciary Administration	Order 24 - Discovery and Inspection of Documents	
003526 - 003556	Chairman Judiciary Administration	Order 25 - Case Management Summons and Conference	
003557 - 004339	Chairman Judiciary Administration Mr James TO Ms Miriam LAU Administration	Order 26 - Interrogatories Members noted that interrogatories in the District Court would continue to be administered only with leave under RDC Order 26 Mr James TO enquired about the reason for retaining the leave requirement in Order 26. He considered that the abolition of the leave requirement for interrogatories would encourage more exchange of information between the parties before trial, thereby facilitating settlement	

Time Marker	Speaker(s)	Subject(s)	Action required
		JA's explanation that the intention of the leave requirement was to limit and control the use of interrogatories having regard to the fact that there were relatively more low-end claims in the District Court. The retention of the leave requirement had also taken into account the Bar Association's submissions in response to the Steering Committee's previous consultation	
004340 - 004400	Chairman Judiciary Administration	Order 29 Interlocutory Injunctions, Interim Preservation of Property, Interim Payment, etc.	
004401 - 004407	Chairman Judiciary Administration	Order 30 - Receivers	
004408 - 004455	Chairman Judiciary Administration	Order 32 - Interlocutory Applications and Other Proceedings in Chambers	
004456 - 004517	Chairman Judiciary Administration	Order 33 :Place and Mode of Trial Order 34: Setting down for Trial Action Begun by Writ Order 35: Procedure at Trial	
004518 - 004546	Chairman Judiciary Administration	Order 37 - Damage: Assessment after Judgment and Orders for Provisional Damages	
004547 - 004605	Chairman Judiciary Administration	Order 38 - Evidence	
004606 - 004632	Chairman Judiciary Administration	Order 39 - Evidence by Deposition	
004633 - 004655	Chairman Judiciary Administration	Order 42 - Judgments and Orders	
004656 - 004738	Chairman Judiciary Administration	Order 50 - Charging Orders, Stop Orders, etc.	
004739 - 004756	Chairman Judiciary Administration	Order 58 - Appeals	
004757 - 004849	Chairman Judiciary Administration	Order 62 - Costs	
004850 - 004915	Chairman Judiciary Administration	Order 63 - Registry	
004916 - 004930	Chairman Judiciary Administration	Order 64 - Court Offices	
004931 - 004947	Chairman Judiciary Administration	Order 77 - Proceedings by and against Government	
004948 - 005008	Chairman Judiciary Administration	Order 78 - Proceedings of Court of First Instance transferred to the Court	

Time Marker	Speaker(s)	Subject(s)	Action required
005009 - 005024	Chairman Judiciary Administration	Order 80 - Disability	
005025 - 005033	Chairman Judiciary Administration	Order 82 - Defamation Actions	
005034 - 005055	Chairman Judiciary Administration	Order 90 - Proceedings concerning Minor	
005056 - 005200	Chairman Judiciary Administration	Order 90A - Proceedings Concerning Judgment Summons	
005201 - 005605	Chairman Judiciary Administration	<p>JA's paper entitled "Proposed Amendments to the Lands Tribunal Rules (Cap. 17A)" [LC Paper No. CB(2)1491/07-08(02)]</p> <p>JA's paper entitled "Proposed Amendments to the High Court (Fees) Rules (Cap. 4D), District Court Civil Procedure (Fees) Rules (Cap. 336C), High Court Suitors' Funds Rules (Cap. 4B), and District Court Suitors' Funds Rules (Cap. 336E)" [LC Paper No. CB(2)1491/07-08(03)]</p> <p>The legal adviser was requested to scrutinize the proposed amendments to the Lands Tribunal Rules and the four sets of Rules relating to fees</p>	
005606 - 005935	Chairman Judiciary Administration Ms Miriam LAU	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
 29 July 2008