

L.N. 158 of 2008**LANDS TRIBUNAL (AMENDMENT) RULES 2008**

(Made by the Chief Justice under section 10(3) of the Lands Tribunal Ordinance (Cap. 17) after consultation with the President of the Lands Tribunal)

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of the Civil Justice (Miscellaneous Amendments) Ordinance 2008 (3 of 2008).

2. Listing for hearing

Rule 14 of the Lands Tribunal Rules (Cap. 17 sub. leg. A) is amended by adding—

“(3) Subrule (2) is in addition to and does not derogate from any power of the Tribunal conferred by any enactment or rule of law.”.

3. Rules added

The following are added—

“30A. Appeals from registrar to presiding officer

(1) An appeal to a presiding officer from a judgment, order or decision of the registrar may be made, irrespective of whether the judgment, order or decision was given or made on the basis of written submissions only or after hearing.

(2) The appeal must be brought by serving on every other party to the proceedings in which the judgment, order or decision was given or made a notice in the form specified by the Tribunal, requiring the party on whom the notice is served to attend before the presiding officer on a day specified in the notice or on such other day as may be directed.

(3) Unless the Tribunal otherwise orders, the notice—

(a) must be filed with the registrar within 14 days after the judgment, order or decision appealed against was given or made; and

(b) must be served within 5 days after filing.

(4) An appeal to which this rule applies must not be heard sooner than 2 clear days after the service under subrule (3)(b).

(5) Except so far as the Tribunal may otherwise direct, an appeal under this rule does not operate as a stay of the proceedings in which the appeal is brought.

(6) No further evidence (other than evidence as to matters which have occurred after the date on which the judgment, order or decision was given or made) may be received on the hearing of an appeal under this rule except on special grounds.

(7) In subrule (1), “registrar” (司法常務官) includes a deputy registrar or assistant registrar of the Tribunal.

30B. Application for leave to appeal

(1) An application for leave to appeal against a judgment, order or decision of the Tribunal must be made to the Tribunal first before the application may be made to the Court of Appeal.

(2) The application to the Tribunal must be made within—

(a) in the case of an appeal against a judgment, order or decision other than an interlocutory judgment, order or decision, 28 days from the date of the judgment, order or decision;

(b) in the case of an appeal against an interlocutory judgment, order or decision, 14 days from the date of the interlocutory judgment, order or decision.

(3) So far as is practicable, the application must be made to the member or members of the Tribunal against whose judgment, order or decision leave to appeal is sought.

(4) Where the Tribunal refuses the application, a further application for leave to appeal may be made to the Court of Appeal within 14 days from the date of refusal.

(5) An application under this rule must be made *inter partes* if the proceedings to which the judgment, order or decision relates are *inter partes*.

30C. Service of notice of appeal

(1) Subject to subrule (2), where leave to appeal is granted by the Tribunal or the Court of Appeal, Order 60A of the Rules of the High Court (Cap. 4 sub. leg. A) applies to the appeal.

(2) Notwithstanding Order 60A, rule 3 of the Rules of the High Court (Cap. 4 sub. leg. A), a notice of appeal within the meaning of that Order must be served on—

- (a) the Tribunal; and
 - (b) all other parties to the proceedings before the Tribunal,
- within 7 days from the date on which leave to appeal is granted.

30D. Extension of time for appeal or application for leave to appeal

The Tribunal or the Court of Appeal may, at any time, and notwithstanding that the time for an appeal or an application for leave to appeal may have already expired, extend the time for the appeal or for applying for leave to appeal.

30E. Non-interlocutory judgments and orders

(1) For the purposes of rule 30B(2), the following judgments and orders are not interlocutory—

- (a) a judgment or order determining in a summary way the substantive rights of a party to an action;
- (b) an order made under section 12(3) of the Ordinance disallowing, or requiring a legal representative to meet, the whole or any part of any wasted costs;
- (c) an order prohibiting a debtor from leaving Hong Kong;
- (d) an order for the imprisonment of a judgment debtor; and
- (e) an order of committal for contempt of court.

(2) Without affecting the generality of subrule (1)(a), the following are judgments and orders determining in a summary way the substantive rights of a party—

- (a) an order striking out—
 - (i) an application or other proceedings;
 - (ii) a notice of application or a notice of opposition; or
 - (iii) any part of the application, proceedings or notice;
- (b) a judgment or order determining any question of law or construction of any document without a full trial of the action;
- (c) a judgment or order dismissing any cause or matter upon determination of a question of law or construction of any document without a full trial of the action;
- (d) a judgment or order on any preliminary issue;
- (e) an order dismissing or striking out an application or other proceedings for want of prosecution;
- (f) a judgment obtained pursuant to an “unless” order;
- (g) an order refusing to set aside a judgment in default;

- (h) an order refusing to allow—
 - (i) an amendment of a notice of application;
 - (ii) a notice of opposition to introduce a new claim or defence; or
 - (iii) any other new issue; and
- (i) a judgment or order on admissions of fact or of part of a case.

(3) A direction as to whether a judgment or order is one that is referred to in subrule (1)(a) may be sought from the member or members of the Tribunal who made or will make the judgment or order.

(4) A reference to an order specified in subrule (1)(b), (c), (d) and (e) includes an order refusing, varying or discharging the order.”.

4. “Registrar” substituted by “registrar”

The following provisions are amended, in the English text, by repealing “Registrar” wherever it appears and substituting “registrar”—

- (a) rule 4(1);
- (b) rule 5(2);
- (c) rule 6;
- (d) rule 7A;
- (e) rule 10;
- (f) rule 13(1) and (4);
- (g) rule 14(1)(a), (b), (c) and (d) and (1A)(a) and (b);
- (h) rule 15(2)(a), (3), (4A) and (6);
- (i) rule 16;
- (j) rule 20(1), (3), (4) and (5);
- (k) rule 22;
- (l) rule 24(4);
- (m) rule 34(1);
- (n) rule 35;
- (o) rule 36;
- (p) rule 38(1);
- (q) rule 39;
- (r) rule 40(1)(a) and (3);
- (s) rule 41(2);
- (t) rule 44(1);
- (u) rule 45;

- (v) rule 46(1)(a) and (3);
- (w) rule 47(2);
- (x) rule 48(1);
- (y) rule 49;
- (z) rule 50;
- (aa) rule 51;
- (ab) rule 53(1);
- (ac) rule 54;
- (ad) rule 56(1);
- (ae) rule 57;
- (af) rule 58(1)(a) and (b), (2), (3) and (4);
- (ag) rule 59(1) and (3);
- (ah) rule 60;
- (ai) rule 61;
- (aj) rule 62(1);
- (ak) rule 63;
- (al) rule 65(1);
- (am) rule 66(1);
- (an) rule 68(1), (1A) and (1B);
- (ao) rule 69(1)(a);
- (ap) rule 72(1);
- (aq) rule 73;
- (ar) rule 74(1), (2), (3), (3A) and (7);
- (as) rule 75;
- (at) rule 77(a), (b) and (c);
- (au) rule 78;
- (av) rule 78H;
- (aw) rule 78I;
- (ax) rule 78J(1).

5. “司法常務主任” substituted by “司法常務官”

The following provisions are amended, in the Chinese text, by repealing “司法常務主任” wherever it appears and substituting “司法常務官”—

- (a) rule 78B(1), (3) and (5);

- (b) rule 78C;
- (c) rule 78D;
- (d) rule 78E(1) and (3);
- (e) rule 78F.

Andrew LI
Chief Justice

4 June 2008

Explanatory Note

These Rules amend the Lands Tribunal Rules (Cap. 17 sub. leg. A) (“Principal Rules”) to—

- (a) make it clear that the powers of the Lands Tribunal under rule 14(2) of the Principal Rules are in addition to and do not derogate from any power of the Lands Tribunal conferred by any enactment or rule of law;
- (b) prescribe the procedure for an appeal against a judgment, order or decision of the Registrar of the Lands Tribunal or of a deputy registrar or assistant registrar of the Lands Tribunal;
- (c) prescribe the procedure for an application for leave to appeal against a judgment, order or decision of the Lands Tribunal, and for any subsequent appeal to the Court of Appeal;
- (d) replace the references to “Registrar” with “registrar”; and
- (e) replace the references to “司法常務主任” with “司法常務官”.