

立法會
Legislative Council

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LC Paper No. CB(2)1245/08-09
(These minutes have been seen
by the Administration)

**Subcommittee on Hong Kong Court of Final Appeal
Fees (Amendment) Rules 2009, District Court Civil Procedure
(Fees) (Amendment) Rules 2009 and Civil Justice (Miscellaneous Amendments)
Ordinance 2008 (Commencement) Notice**

**Minutes of meeting
held on Friday, 13 February 2009, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Dr Hon Margaret NG (Chairman)
Hon Albert HO Chun-yan
Hon Ronny TONG Ka-wah, SC
Hon Paul TSE Wai-chun
- Members absent** : Hon LAU Kong-wah, JP
Hon LEUNG Kwok-hung
Hon CHIM Pui-chung
- Public Officers attending** : Item II
Judiciary Administration
Miss Clara TANG
Assistant Judiciary Administrator (Development)
Miss Queenie LEE
Senior Administrative Officer (Development)
The Administration
Department of Justice
Mr Wesley WONG
Senior Assistant Law Officer (Civil Law)
Mr CHENG Kim-fung
Senior Assistant Law Draftsman
Ms Carmen CHU
Senior Government Counsel

Clerk in attendance : Miss Flora TAI
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. Election of Chairman

Dr Margaret NG, member of the highest precedence among members present, presided over the election of the Chairman. Dr NG called for nominations for the chairmanship of the Subcommittee. Dr Margaret NG was nominated by Mr Ronny TONG and the nomination was seconded by Mr Paul TSE. Dr Margaret NG accepted the nomination.

2. As there was no other nomination, Dr Margaret NG was elected Chairman of the Subcommittee.

II. Meeting with the Judiciary Administration and the Administration

[The Legislative Council Brief on Hong Kong Court of Final Appeal Fees (Amendment) Rules 2009, The Legislative Council Brief on District Court Civil Procedure (Fees) (Amendment) Rules 2009, LC Paper Nos. CB(2)847/08-09(01) - (03), CB(2)601/08-09(06)and (07), CB(2)620/08-09(01) and LS37/08-09]

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

Judiciary
Admin

4. The Judiciary Administration was requested to -

- (a) provide further information on the Judiciary's publicity initiatives for the implementation of the Civil Justice Reform (CJR);
- (b) provide a response to members' views that the scope of the publicity work on CJR should be extended beyond the Resource Centre for Unrepresented Litigants (Resource Centre) to reach the general public, e.g. by distributing the relevant promotional materials through district offices and notifying non-governmental organizations providing free legal advice and related services to the general public about the implementation of CJR;

Action

- (c) advise how many sets of leaflets for unrepresented litigants would be updated to reflect the changes brought about by CJR;
- (d) consider the suggestion that the Judiciary should notify all unrepresented litigants with ongoing proceedings about the implementation of CJR as they would likely be affected by the impending procedural changes brought about by CJR;
- (e) provide further information on the scope of work and operation of the committee established by the Chief Justice to monitor the implementation of CJR, and advise whether it would handle complaints on matters relating to the implementation of CJR, such as complaints on case management by judges;
- (f) advise whether it had made any assessment of problems which would likely arise upon the implementation of CJR and how such implementation problems would be addressed; and
- (g) convey to the Steering Committee on CJR members' suggestions that it should consider writing to the two legal professional bodies, inviting them to consider (a) conducting a survey to ascertain how many legal practitioners had participated in training programmes on CJR; and (b) making CJR training mandatory for their members.

JA was requested to provide a written response to the above issues by noon, 16 February 2009.

III. Any other business

The way forward

Clerk

5. Members agreed to schedule a further meeting on 17 February 2009 at 8:30 am. Members further agreed that upon receipt of JA's written response by noon, 16 February 2009, the Clerk would follow up with members on whether they considered it necessary to further discuss JA's response at the meeting scheduled for 17 February 2009. If no member considered it necessary to do so, the meeting would be cancelled.

[Post-meeting note: As no member had requested to discuss JA's response (LC Paper No. CB(2)895/08-09(01)) at the meeting scheduled for 17 February 2009 at 8:30 am, with the concurrence of the Chairman, the meeting had been cancelled. Members were informed vide LC Paper No. CB(2)896/08-09 dated 16 February 2009 that the Subcommittee would report its deliberations to the House Committee on 20 February 2009.]

Action

6. The meeting ended at 9:34 am.

Council Business Division 2
Legislative Council Secretariat
3 April 2009

**Proceedings of the meeting of the
Subcommittee on Hong Kong Court of Final Appeal
Fees (Amendment) Rules 2009, District Court Civil Procedure
(Fees) (Amendment) Rules 2009 and Civil Justice (Miscellaneous Amendments)
Ordinance 2008 (Commencement) Notice
on Friday, 13 February 2009, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000228 - 000309	Dr Margaret NG Mr Ronny TONG Mr Paul TSE	Election of Chairman	
000310 - 000701	Chairman Judiciary Administration	Opening remarks	
Hong Kong Court of Final Appeal Fees (Amendment) Rules 2009			
000702 - 000922	Judiciary Administration Chairman	<p>Briefing by the Judiciary Administration (JA) on the Hong Kong Court of Final Appeal Fees (Amendment) Rules 2009 [Annex to LC Paper No. CB(2)601/08-09(06); LegCo Brief on the Amendment Rules].</p> <p>JA's advice that the two legal professional bodies had been consulted on the proposed amendments. The Law Society of Hong Kong (Law Society) had no comment on the Amendment Rules. The comment of the Bar Association of Hong Kong (Bar Association), which related to drafting aspects of the Amendments Rules, had been incorporated therein.</p> <p>In response to the Chairman, JA's advice that the proposed amendments to the taxation procedures of the Hong Kong Court of Final Appeal were to follow the revised taxation procedures under the Rules of the High Court as amended in July 2008. The amendments were consequential and technical in nature.</p>	
000923 - 001538	Mr Ronny TONG Judiciary Administration Chairman Administration Mr Paul TSE	<p>Mr Ronny TONG and Mr Paul TSE sought clarification on the objectives of the proposed amendments relating to taxing fee.</p> <p>JA/Administration's explanation that –</p> <p>(a) <u>Withdrawal of a bill of costs</u>: under the present arrangement, if a bill of costs was withdrawn less than seven days before the appointment for taxation, a fee would be payable by the party who withdrew the bill. The fee, which was 10% of the taxing fee or \$1,000, whichever was the less, would be</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>deducted from the taxing fee paid to the court with the balance of the amount to be refunded to the party concerned. To encourage early settlement, amendments were made to the effect that the party would be entitled to refund of the taxing fee if the bill was withdrawn within seven days after application for setting down the taxation; and</p> <p>(b) <u>Basis for calculating taxing fee:</u> To deter inflation of the amount claimed under the bill of costs, thereby facilitating early settlement, the prescribed taxing fee would be levied on the amount claimed in the bill of costs, instead of the amount allowed as at present.</p>	
District Court Civil Procedure (Fees) (Amendment) Rules 2009			
001539 - 001649	Chairman Judiciary Administration	<p>Briefing by JA on the District Court Civil Procedure (Fees) (Amendment) Rules 2009 [Annex to LC Paper No. CB(2)601/08-09(06); LegCo Brief on the Amendment Rules].</p> <p>JA's advice that the two professional bodies had been consulted and were agreeable to the proposed amendments.</p>	
001650 - 001834	Chairman Judiciary Administration	<p>JA's explanation on the transitional provision (clause 2) which provided that the position of the relevant applications made before the commencement of the Amendment Rules would not be affected.</p>	
Matrimonial Causes (Fees) (Amendment) Rules 2009			
001835 - 001932	Chairman Judiciary Administration	<p>JA's advice that the Matrimonial Causes (Fees) (Amendment) Rules 2009, which proposed amendments similar to those of the Hong Kong Court of Final Appeal Fees (Amendment) Rules 2009, would be introduced into the Legislative Council in March 2009 and subject to the positive vetting procedure.</p>	
Civil Justice (Miscellaneous Amendments) Ordinance 2008 (Commencement) Notice			
001933 - 002051	Chairman Judiciary Administration	<p>Briefing by JA on the Civil Justice (Miscellaneous Amendments) Ordinance 2008 (Commencement) Notice [LC Paper No. CB(2)847/08-09(01)].</p>	
002052 - 002257	Chairman Judiciary Administration	<p>The Chairman's enquiry on the preparation of the Resource Centre for Unrepresented Litigants (Resource Centre) for the implementation of the Civil Justice Reform (CJR).</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>JA's response as follows –</p> <ul style="list-style-type: none"> (a) the series of leaflets on civil proceedings targeted at unrepresented litigants were being updated to reflect changes brought about by CJR; (b) a video to introduce to the public, including unrepresented litigants, on the main features of CJR was being produced; (c) the website of the Resource Centre would be suitably updated to take note of the features of CJR; (d) the existing court forms would be updated to take note of CJR; (e) posters announcing the implementation of CJR would be displayed in court premises; and (f) training programmes on CJR had been provided to judges at all levels of court and support staff of the Judiciary whose work was related to CJR, including staff manning the Resource Centre <p>With reference to (a) above, the Chairman's enquiry on the number of brochures which would be updated.</p>	<p>JA to provide requisite information (para 4(c) of minutes)</p>
002258 - 002642	Chairman Judiciary Administration	<p>The Chairman's enquiry on the publicity work on implementation of CJR.</p> <p>JA's response that a press release had been issued on the implementation of CJR upon the gazettal of the Commencement Notice and the two sets of Amendment Rules. Apart from the Resource Centre, the public could also access information on CJR from the website of the Judiciary.</p> <p>The Chairman's views that the publicity efforts on CJR should be extended beyond the Resource Centre to reach the general public, e.g. by distributing publicity materials on CJR through district offices.</p>	<p>JA to provide further information on Judiciary's publicity initiatives for implementation of CJR (para of 4(a) minutes)</p> <p>JA to provide a response to the Chairman's views (para 4(b) of minutes)</p>

Time Marker	Speaker(s)	Subject(s)	Action required
002643 - 003143	Mr Ronny TONG Judiciary Administration Chairman	<p>Mr Ronny TONG's view that the Judiciary should notify all unrepresented litigants with ongoing proceedings about the implementation of CJR as early as possible as they were likely affected by the impending procedural changes brought about by CJR.</p> <p>Mr TONG's concern that some legal practitioners had not attended the training programmes on CJR; his view that consideration should be given to making CJR training a mandatory requirement.</p>	JA to provide a response to the Mr TONG's views (para 4(d) of minutes)
003144 - 003614	Chairman Judiciary Administration	<p>The Chairman's views that publicity work on CJR targeting at the general public should start as early as possible. In addition to putting up posters/notices in the Resource Centre and court premises, pro bono legal service providers, including the Free Legal Advice Scheme under the Duty Lawyer Service and the relevant non-governmental organizations, should also be notified of the impending procedural changes of CJR as early as practicable.</p> <p>JA's response that another round of publicity work would be launched before the commencement of CJR, details of which were being worked out. For instance, consideration could be given to notifying organizations which had given views or had been consulted in the previous consultation exercises on CJR on the impending implementation of CJR.</p>	JA to provide a response to the Chairman's views (para 4(b) of minutes)
003615 - 003707	Mr Albert HO	Mr Albert HO's view that the Law Society should remind law firms to get prepared for the implementation of CJR.	
003708 - 003906	Chairman Judiciary Administration	The Chairman 's remarks that she had received e-mails from small law firms and less experienced legal practitioners expressing concern about the substantial changes brought about by CJR and the impact of CJR on their business.	
003907 - 004220	Mr Albert HO Chairman	Mr Albert HO's suggestion that the two legal professional bodies should conduct a survey to ascertain how many practitioners had attended training programmes on CJR.	
004221 - 004507	Chairman Judiciary Administration	The Chairman's enquiry about the progress of the work in setting up the committee (the Monitoring Committee) to monitor the working of the reformed civil justice system since the meeting of the Panel on Administration of Justice and Legal Services on 13 January 2009.	JA to provide further information on the scope of work and operation of the Monitoring Committee on

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		JA's response that as the appointment process was still underway, detailed information on the scope of work and operation of the Monitoring Committee could not be provided at this juncture.	CJR (para 4(e) of minutes)
004508 - 004542	Chairman Clerk	Legislative timetable and date of reporting to the House Committee	
004543 - 004656	Chairman	JA was requested to advise whether the Monitoring Committee would handle complaints received on matters relating to the implementation of CJR, such as complaints on case management by judges.	JA to provide requisite information sought by the Chairman (para 4(e) of minutes)
004657 - 005355	Mr Paul TSE Judiciary Administration Chairman	Mr Paul TSE's enquiry on whether the Judiciary had made any assessment of problems which would likely arise upon the implementation of CJR, and how such implementation problems would be addressed. JA's response that - (a) as pointed out by the Chief Justice in his speech at the Ceremonial Opening of the Legal Year 2009, with such a major reform, it was likely that there would be teething problems; and (b) a dedicated team of staff members from the Operations Division of JA would be designated to monitor closely the operation of the reformed system upon the implementation of CJR and tackle issues which arose.	JA to provide requisite information (para 4(f) of minutes)
005356 - 005821	Chairman Mr Paul TSE Mr Ronny TONG Clerk	JA was requested to provide a written response to issues/views raised at this meeting by noon, 16 February 2009 (Monday). Members' agreement to schedule a further meeting on 17 February 2009. Members also agreed that if JA was able to provide a satisfactory response to the issues raised at this meeting by the above deadline, the meeting would be cancelled.	JA to follow up (para 4 of minutes)
005822 - 010000	Mr Albert HO Chairman	JA was requested to convey to the Steering Committee on CJR members' suggestions that it might consider writing to the two legal professional bodies, inviting them to consider (a) conducting a survey to ascertain how many legal practitioners had participated in training programmes on CJR; and (b) making CJR training mandatory for their members.	JA to follow up and provide a response (para 4(g) of minutes)

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010001 -010117	Chairman	Clause-by-clause examination of the Hong Kong Court of Final Appeal Fees (Amendment) Rules 2009 [Appendix I of Annex to LC Paper No. CB(2)601/08-09(06)]	
010118 - 010207	Chairman	Clause-by-clause examination of the District Court Civil Procedure (Fees) (Amendment) Rules 2009 [Appendix II of Annex to LC Paper No. CB(2)601/08-09(06)]	
010208 - 010329	Chairman Clerk	The way forward and date of next meeting Members' agreement that - (a) the next meeting would be scheduled for 17 February 2009 (Tuesday) at 8:30 am; (b) upon receipt of JA's response by noon of 16 February 2009, the Clerk would follow up with members on whether they considered it necessary to further discuss JA's response at the meeting scheduled for 17 February 2009; and (c) the meeting would be cancelled if all members agreed that it was not necessary to further discuss JA's response at the meeting.	Clerk to follow up (para 5 of minutes)