

立法會
Legislative Council

Ref : CB2/SS/1/09

LC Paper No. CB(2)338/09-10
(These minutes have been seen by
the Administration)

**Subcommittee on Rules of the High Court
(Amendment) Rules 2009**

**Minutes of third meeting
held on Monday, 9 November 2009, at 4:30 pm
in Conference Room B of the Legislative Council Building**

- Members present** : Dr Hon Margaret NG (Chairman)
Hon James TO Kun-sun
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Ronny TONG Ka-wah, SC
Hon IP Wai-ming, MH
- Members absent** : Hon Cyd HO Sau-lan
Hon Paul TSE Wai-chun
- Public Officers attending** : Item I

Mr David LAU Kam-kuen
Principal Assistant Secretary for Security A

Ms Veronica WONG Hoi-yee
Assistant Secretary for Security A2

Mr Sunny CHAN Yuen-sun
Senior Assistant Law Draftsman
Department of Justice

Miss Selina LAU Suet-ching
Senior Government Counsel
Department of Justice

Mr John RIBEIRO
Chief Superintendent of Police (Narcotics Bureau)
Hong Kong Police Force

Mr Nelson CHENG Yiu-mo
Superintendent (Financial Investigation Group)
(Narcotics Bureau)
Hong Kong Police Force

Clerk in attendance : Miss Mary SO
Chief Council Secretary (2)5

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Miss Josephine SO
Senior Council Secretary (2)1

Ms Sandy HAU
Legislative Assistant (2)5

Action

I. Meeting with the Administration

[L.N. 186 of 2009, CB(2)121/09-10(02) to (05), CB(2)172/09-10(01) to (02), CB(2)231/09-10(01) and CB(2)234/09-10(01)]

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

2. At the request of the Subcommittee, the Administration and Assistant Legal Adviser 2 undertook to respectively provide a paper on whether it was against any legal principle to prescribe the definition of "prescribed interest" in the Rules of the High Court (Amendment) Rules 2009 instead of in the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (the Ordinance).

3. At the request of the Subcommittee, the Administration also undertook to provide a response in writing to the following issues raised by members before the next meeting -

- (a) procedures for the Chief Executive to submit an application under section 5 of the Ordinance;
- (b) measure(s) that would be taken by the Administration to ensure that the intention to make an application under section 5(1)(a) of the Ordinance was widely publicised, apart from that stipulated in rule 3(1)(b)(ii) of the new Order 117A; and

- (c) reason(s) why all originating summons under the new Order 117A were in expedited form.

II. Any other business

- 4. The Chairman reminded members that the next meeting of the Subcommittee was scheduled for 13 November 2009 at 8:30 am to continue scrutiny of the new Order 117A from rule 6.
- 5. There being no other business, the meeting ended at 6:23 pm.

Council Business Division 2
Legislative Council Secretariat
20 November 2009

**Proceedings of the meeting of the
Subcommittee on Rules of the High Court (Amendment) Rules 2009
on Monday, 9 November 2009, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000549	Chairman Ms Audrey EU Mr Ronny TONG	The Administration was requested to consider the way forward if the Subcommittee could not complete its work due to time constraint	
000550 - 000630	Chairman	Members did not raise any query on the supplementary information in regard to the definition of "prescribed interest" as prescribed by the Rules of the High Court (Amendment) Rules 2009 (the Amendment Rules) for the purposes of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (LC Paper No. CB(2)234/09-10(01))	
000631 - 001726	Chairman Admin ALA2	Briefing by the Administration on its reply to the Subcommittee dated 6 November 2009 on whether the definition of "prescribed interest" could be amended to take into account members' views to ensure that the coverage of the definition would be as wide as possible for the purpose of its application in Cap. 575 (LC Paper No. CB(2)231/09-10(01)) The Administration and ALA2 were requested to respectively provide a paper on whether it was against legal principle to provide the definition of "prescribed interest" in the Rules of the High Court (Amendment) Rules 2009 instead of in Cap. 575	Admin and ALA2 to provide a response (paragraph 2 of the minutes refers)
001727 - 002235	Chairman Ms Miriam LAU Admin	The way forward if the Subcommittee could not complete its work due to time constraint	
002236 – 002408	Chairman Admin	<u>Continued scrutiny of the Amendment Rules</u> <i>Rule 2 - Judge to exercise jurisdiction</i>	
002409 - 004505	Admin Chairman Mr James TO ALA2 Mr Ronny TONG Mr LAU Kong-wah	<i>Rule 3 - Ex parte application to specify person as terrorist or terrorist associate</i> The Administration was requested to provide information on the procedures for the Chief Executive (CE) to submit an application under section 5 of Cap. 575	Admin to provide a response (paragraph 3(a) of the minutes refers)
004506 - 012505	Mr LAU Kong-wah Chairman Admin Mr James TO ALA2 Ms Miriam LAU	The Administration was requested to provide information on measure(s) that would be taken by the Administration to ensure that the intention to make an application under section 5(1)(a) of Cap. 575 was widely publicised, apart from that stipulated in rule 3(1)(b)(ii) of the new Order 117A	Admin to provide a response (paragraph 3(b) of the minutes refers)

Time marker	Speaker	Subject	Action required
012506 - 012834	Chairman ALA2 Admin	<p><i>Rule 4 - Inter partes application to specify person as terrorist or terrorist associate</i></p> <p>ALA2's letter to the Administration dated 14 October 2009 on the rationale for the arrangement of rule 4(4) and rule 4(5) of the new Order 117A and similar arrangement under rules 7(4) and 7(5) and rules 10(3) and 10(4) of the same Order, and the Administration's reply dated 20 October 2009 (LC Paper Nos. CB(2)121/09-10(04) & (05))</p>	
012835 - 014415	Mr James TO Chairman Admin ALA2	<p>The Administration was requested to explain why all originating summons under the new Order 117A were in expedited form</p> <p>Mr James TO's query on why a copy of the affidavit would be served on the Secretary for Justice and not CE under rule 4(5) of the new Order 117A</p>	Admin to provide a response (paragraph 3(c) of the minutes refers)
014416 - 014545	Admin Chairman ALA2	<p><i>Rule 5 - Additional affidavit procedure for application under section 5(1)(a)</i></p>	
014546 - 015232	Chairman Mr James TO Admin	Closing remarks	