

**Bills Committee on Insurance Companies (Amendment) Bill 2014  
("the Bill")**

**The Administration's Response to Members' Requests and Questions  
Raised at the Meeting on 9 December 2014**

**Purpose**

This paper sets out the Administration's response to issues raised by Members at the Bills Committee meeting on 9 December 2014.

**(1) Insurance Appeals Tribunal ("IAT")**

*(a) IAT sittings*

2. The statutory procedures of the IAT aim to secure the just, expeditious and economical conduct of the reviews. Section 5 of new Schedule 10 added by Clause 94 of the Bill sets out the conduct of IAT sittings which are necessary to determine a review. At any sitting of the IAT, the parties to a review must be entitled to be heard in person or through a counsel, solicitor or, with the leave of the IAT, any other person (section 5(8)). In response to a Member's suggestion, we will consider including specific provisions that the IAT may make a determination on the basis of written submissions only.

*(b) Appellate mechanism for reviewing the IAT's decision*

3. According to new section 113 added by Clause 84 of the Bill, the determination of the IAT is subject to appeal only when (a) a party to a review appeals to the Court of Appeal pursuant to the new section 110 added by Clause 84 of the Bill against the determination on a question of law, a question of fact, or a question of mixed law and fact; or (b) a person appeals to the Court of Appeal pursuant to section 50 of the High Court Ordinance (Cap. 4) (please see paragraph 5 below) against a decision of the IAT in the exercise of jurisdiction to punish for contempt of court.

4. A party may appeal to the Court of Final Appeal against a judgment of the Court of Appeal.

*(c) Section 50 of the High Court Ordinance*

5. The new section 113 added by Clause 84 of the Bill provides that subject to section 50 of the High Court Ordinance (Cap. 4) and the new section 110, the determination of the Tribunal is final and is not subject to appeal. Section 50 of the High Court Ordinance is about appeal in cases of contempt of court. A copy of section 50 of the High Court Ordinance is attached at **Annex**.

*(d) Legal costs*

6. According to new section 104 added by Clause 84 of the Bill, the IAT may, in relation to a review, by order award legal costs to a party to the review. The award of costs and the taxation of any costs awarded will be subject to Order 62 of the Rules of the High Court (Cap. 4 sub. leg. A). We understand that the same practice is adopted by the Administrative Appeals Board (please see section 22(4) of the Administrative Appeals Board Ordinance (Cap. 442)). Furthermore, the Bill provides that preliminary conferences could be held by the IAT Chairman for the purposes of assisting and expediting the conduct of the review. Subject to the consent of the IAT Chairman, parties to the appeal may discuss the parameters for awarding costs with the IAT at a preliminary conference.

**(2) Drafting of the Bill**

7. We agree to revise the definitions of “regulated activity”, “material decision” and “regulated advice” as set out in the revised section 2(1) of ICO (under clause 5(14)) to “see section 3A(a)”, “see section 3A(b)” and “see section 3A(c)” respectively.

**Financial Services and the Treasury Bureau  
December 2014**

## Contents of Section

Chapter:	4	Title:	HIGH COURT ORDINANCE	Gazette Number:	25 of 1998
Section:	50	Heading:	Appeal in cases of contempt of court	Version Date:	01/07/1997

## Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

### Contempt of Court

(1) Subject to this section, an appeal shall lie from any order or decision of a court, other than the Court of Appeal, in the exercise of jurisdiction to punish for contempt of court, including criminal contempt; and in relation to any such order or decision this section shall have effect in substitution for any other law relating to appeals in civil or criminal proceedings.

(2) An appeal under this section shall lie to the Court of Appeal in any case at the instance of the person against whom the proceedings for contempt of court were brought or the order was made and, in the case of an application for committal or attachment, at the instance of the applicant.

(3) The Court of Appeal may on appeal reverse or vary the order or decision of a court, and make such other order as may be just; and without prejudice to the powers of any court to grant bail, provision may be made by rules of court for authorizing the release on bail of an appellant under this section.

(4) In this section-

(a) "court" (法庭) includes any tribunal or person having power to punish for contempt; and

(b) references to an order or decision of a court in the exercise of jurisdiction to punish for contempt of court include references to an order or decision of any court under any law enabling the court to deal with an offence as if it were contempt of court.

(5) This section does not apply to a conviction or sentence in respect of which an appeal lies under the Criminal Procedure Ordinance (Cap 221), or to a decision of the Court of Appeal under that Ordinance; and for the purposes of that Ordinance and of this subsection an order for the punishment of any person for contempt of court in proceedings in which he has a right of appeal against his sentence shall be treated as part of that sentence.

[cf. 1960 c. 65 s. 13 U.K.]