

L.N. 109 of 2015

Competition Tribunal Rules

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Competition Tribunal Rules

(Made by the Chief Judge under section 158 of the Competition Ordinance (Cap. 619) after consulting the President of the Competition Tribunal)

Part 1

Preliminary

1. Commencement

These Rules come into operation on a day to be appointed by the Chief Judge by notice published in the Gazette.

2. Interpretation

(1) In these Rules—

CFI means the Court of First Instance;

file (送交存檔) means to file in the Registry of the Tribunal;

intervener (介入者) means—

- (a) a person who is granted leave to intervene in any proceedings under rule 20; or
- (b) the Commission that is granted leave to intervene in any proceedings under rule 21;

originating document (原訴文件) means—

- (a) an originating notice of application in Form 1 in the Schedule, a notice of application for leave in Form 7 in the Schedule, an originating notice of claim in Form 8 in the Schedule, or any other form that is prescribed in these Rules, by filing of which proceedings are commenced in the Tribunal; or

- (b) for proceedings transferred from the CFI to the Tribunal under section 113 of the Ordinance, a writ of summons, an originating summons, an originating motion or a petition, by filing of which the proceedings were commenced in the CFI;

party (一方、方), in relation to any proceedings, means a party to the proceedings and includes—

- (a) an intervener; and
(b) an interested party on whom documents are directed by the Tribunal to be served under rule 64;

presiding member (主持聆訊成員), in relation to an application heard by the Tribunal, means—

- (a) the President who is to preside over the hearing under section 145(2) of the Ordinance; or
(b) a member of the Tribunal appointed by the President to preside over the hearing under section 145(2) of the Ordinance;

proceedings (法律程序) means any proceedings before the Tribunal;

Registrar (司法常務官) means the Registrar of the Tribunal;

RHC (《高院規則》) means the Rules of the High Court (Cap. 4 sub. leg. A);

Tribunal (審裁處) includes—

- (a) any one or more of the members of the Tribunal; and
(b) the Registrar when exercising the power of the Tribunal under the Ordinance or these Rules.
- (2) In these Rules, a reference to a member of the Tribunal includes the President and Deputy President of the Tribunal, unless otherwise provided.

3. Application of these Rules

- (1) This Part and Part 2 apply to all proceedings under the Ordinance.
- (2) Part 3 applies to an application for a review of a reviewable determination under section 84 of the Ordinance.
- (3) Part 4 applies to—
 - (a) an application for enforcement of a commitment under section 63 of the Ordinance;
 - (b) an application for enforcement before the Tribunal under Part 6 of the Ordinance; and
 - (c) an application for an order under section 169 of the Ordinance.
- (4) Part 5 applies to an action brought under section 110 of the Ordinance.
- (5) Part 6 applies to all proceedings transferred from the CFI to the Tribunal under section 113 of the Ordinance.

4. Application of RHC

- (1) Where the Ordinance and these Rules make no provision for a matter, the RHC apply to all proceedings, so far as they may be applicable to that matter.
- (2) If any provision of the RHC applies to any proceedings, the provision applies—
 - (a) with any necessary modifications; and
 - (b) as if references to the Court in the RHC were references to the Tribunal.
- (3) Despite subrule (1), the Tribunal may, in a particular case, dispense with the application of the RHC if the Tribunal considers that—

- (a) doing so will enable the Tribunal to conduct its proceedings expeditiously with as much informality as is consistent with attaining justice;
- (b) doing so will save costs and is consistent with attaining justice; or
- (c) doing so is otherwise in the interests of justice.

5. Exercise of Tribunal's powers

Except as otherwise provided by the Ordinance and these Rules, the Tribunal may exercise its powers under these Rules either of its own motion or on application.

6. Effect of non-compliance with these Rules

- (1) Non-compliance with any of these Rules, or with any rule of practice that is in force, does not render any proceedings void unless the Tribunal so directs.
 - (2) However, the Tribunal may—
 - (a) set aside the proceedings, either wholly or in part, as irregular; or
 - (b) amend, or otherwise deal with, the proceedings in the manner and on the terms that the Tribunal thinks fit.
 - (3) The Tribunal—
 - (a) must not under subrule (2)(a) wholly set aside any proceedings as irregular only because the proceedings ought to have been commenced by filing a notice, a summons or an application required under these Rules other than the one employed; and
 - (b) must instead give directions for the continuation of the proceedings in an appropriate manner.
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Part 2

All Proceedings before Tribunal

Division 1—Commencement of Proceedings and Interlocutory Application

7. Mode of commencement of proceedings

Unless otherwise provided in Parts 3, 4 and 5, all proceedings before the Tribunal must be commenced by filing an originating notice of application in Form 1 in the Schedule.

8. Interlocutory application

- (1) All interlocutory applications to the Tribunal must be made by filing a summons in Form 2 in the Schedule, unless—
 - (a) otherwise provided in these Rules; or
 - (b) the Tribunal otherwise directs.
- (2) If an interlocutory application is made with the consent of all parties, then evidence of the consent must be produced to the Tribunal.
- (3) Unless the Tribunal otherwise orders, the applicant must serve the summons on every other party of the application not less than 2 clear days before the date specified in the summons for the hearing of the application.
- (4) Despite subrule (3), a summons for an application for abridgment or extension of time may be served on the day before the date specified in the summons for the hearing of the application concerned.

9. Consolidation, etc., of proceedings or applications

- (1) Where 2 or more proceedings or applications are pending before the Tribunal, the Tribunal may make an order specified in subrule (2) if it appears to the Tribunal that—
 - (a) some common question of law or fact arises in both or all of them;
 - (b) the reliefs sought are in respect of, or arise out of, the same act or a series of acts;
 - (c) the reliefs are sought against the same defendant or respondent; or
 - (d) for some other reasons, it is desirable to make an order under this rule.
- (2) The order under subrule (1) may provide that—
 - (a) the proceedings or applications are to be consolidated on such terms as the Tribunal thinks just;
 - (b) the proceedings or applications are to be tried or determined at the same time, or one immediately after another; or
 - (c) any of the proceedings or applications is to be stayed until after the determination of any other of them.
- (3) Where the Tribunal makes an order under subrule (1) that 2 or more proceedings or applications are to be tried or determined at the same time but no order is made for them to be consolidated, then a party to one of those proceedings or applications may be treated as if it were a party to any of those other proceedings or applications for the purpose of making an order for costs, against the party or, in favour of the party.

10. Forms

The forms contained in the Schedule or forms to the like effect are to be used with such variations and modifications as the circumstances may require.

Division 2—Service

11. Address for service provided in first document

- (1) A party must provide in the first document that the party files for the proceedings—
 - (a) the party's name; and
 - (b) either—
 - (i) the party's address in Hong Kong for service for the proceedings, which must not be a post office box number; or
 - (ii) where the party is acting by a solicitor, the solicitor's name or the name of the solicitor's firm and a business address of the solicitor in Hong Kong.
- (2) A party may change the address provided under subrule (1)(b) by giving reasonable notice in writing to the Registrar and to every other party.

12. Parties to be served

- (1) Subject to any direction that the Tribunal may give, a party who files a document must serve the document on the other parties.
- (2) The Tribunal may direct that a party who files a document must serve the document on any person (other than the other parties).

13. Method of service of originating documents

- (1) This rule applies to the service of an originating document on or by any person including the Commission.
- (2) An originating document required to be served on a person under these Rules is duly served if—
 - (a) a copy of the document is served personally on the person;
 - (b) where the person is within the jurisdiction—
 - (i) a copy of the document is sent by registered post addressed to the person at the person’s usual or last known address; or
 - (ii) if there is a letter box for that address, a copy of the document enclosed in a sealed envelope addressed to the person is inserted through the letter box; or
 - (c) where the Tribunal makes an order under subrule (8)(a), a copy of the document is served in the form specified under subrule (8)(b).
- (3) An originating document served under subrule (2)(b) is, unless the contrary is shown, regarded as being served—
 - (a) for subrule (2)(b)(i), on the 7th day after the date on which a copy of the document was sent under that subrule; or
 - (b) for subrule (2)(b)(ii), on the 7th day after the date on which the envelope enclosing a copy of the document was inserted through the letter box under that subrule.
- (4) Where an originating document is served under subrule (2)(b), an affidavit proving due service of the originating document must contain a statement to the effect that—

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- (a) in the opinion of the deponent or, if the deponent is the applicant's or plaintiff's solicitor or an employee of that solicitor, in the opinion of the applicant or plaintiff—
 - (i) for subrule (2)(b)(i), the copy of the originating document, if sent under that subrule, will have come to the knowledge of the respondent or defendant within 7 days after the date on which it is sent; or
 - (ii) for subrule (2)(b)(ii), the copy of the originating document, if inserted through a letter box under that subrule, will have come to the knowledge of the respondent or defendant within 7 days after the date on which it is inserted; and
 - (b) for subrule (2)(b)(i), the copy of the originating document has not been returned to the applicant or plaintiff through the post undelivered to the addressee.
- (5) Where a respondent's or defendant's solicitor indorses on the originating document a statement that he or she accepts service of the originating document on behalf of the respondent or defendant, the originating document is regarded to have been duly served on the respondent or defendant on the date on which the indorsement was made.
 - (6) Every copy of an originating document for service on a respondent or defendant must be sealed with the seal of the Tribunal.
 - (7) This rule has effect subject to the provisions of any Ordinance and these Rules and in particular to any enactment that provides for the manner in which documents may be served on bodies corporate.

- (8) If it appears to the Tribunal that, after reasonable efforts, it has not been possible for a party to effect service on a person in accordance with subrule (2)(a) or (b), the Tribunal may, on the application of the party—
 - (a) make an order for substituted service on the person; and
 - (b) specify in the order the form of service (whether by advertisement in a newspaper or otherwise) that the Tribunal thinks fit.
- (9) An application for the purpose of subrule (8) may be made by an affidavit stating the facts on which the application is founded.

14. Method of service of documents other than originating documents

- (1) This rule applies to the service of a document, other than an originating document, on or by any person including the Commission.
- (2) Order 65 of the RHC applies to a document, other than an originating document, required to be served on a person under these Rules.

15. Notice to be given by Tribunal

If a notice is required to be given by the Tribunal to a person, whether a party or not, under the Ordinance, it may be given—

- (a) if the person is acting by a solicitor, by sending it by ordinary post addressed to the solicitor at the address for service or at the business address of the solicitor in Hong Kong;
- (b) if the person is not acting by a solicitor—

- (i) by sending it by ordinary post addressed to the person at the address for service provided under rule 11; or
- (ii) if no address for service is provided under rule 11, by sending it by ordinary post addressed to the person at the person's usual or last known place of abode or business in Hong Kong; or
- (c) in any other manner that the Tribunal directs.

16. Service out of jurisdiction

- (1) Service of an originating document out of the jurisdiction is permissible with the leave of the Tribunal if each claim to which the document relates falls within the jurisdiction of the Tribunal.
- (2) Service out of the jurisdiction of any summons issued, notice given or order made in any proceedings is permissible with the leave of the Tribunal.
- (3) Subject to this rule, Order 11 of the RHC applies to the service of all documents out of the jurisdiction.

17. No acknowledgement of service of originating documents

- (1) A person on whom an originating document is served is not required—
 - (a) to acknowledge service of the originating document; or
 - (b) to give a notice of intention to defend.
- (2) Order 13 of the RHC does not apply to any proceedings.

18. Duration and renewal of originating documents

- (1) For the purpose of service—

- (a) an originating document by filing of which proceedings are commenced in the Tribunal is valid in the first instance for 6 months, beginning with the date of its filing; and
 - (b) to avoid doubt, an originating document by filing of which proceedings were commenced in the CFI before transfer to the Tribunal remains valid in the first instance for 12 months, beginning with the date of its filing in the CFI, despite the transfer.
- (2) If an originating document has not been served on a respondent or defendant within the period specified in subrule (1)(a) or (b), the Tribunal may, on application, extend the validity of the document from time to time for a period that the Tribunal thinks fit.
 - (3) The period extended under subrule (2) must not exceed 6 months at any one time, beginning with the day next following the date on which it would otherwise expire.
 - (4) Subject to this rule, Order 6, rule 8 of the RHC applies to the validity of originating documents.
 - (5) This rule does not affect the requirement on service that may be prescribed in these Rules.

Division 3—Publication of Notice of Application, Intervention and Addition of Parties

19. Publication of notice of application or proceedings

- (1) The Registrar must publish a notice in a manner that the President may direct as soon as practicable after—
 - (a) the filing of an application under section 63(1), 92(1), 94(1), 97(1) or 99(1) of the Ordinance;

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- (b) the granting of leave to apply for a review of a reviewable determination under section 84(2) of the Ordinance;
 - (c) the receipt of a claim brought under section 110(1) of the Ordinance;
 - (d) the transfer of any proceedings from the CFI to the Tribunal under section 113 of the Ordinance; or
 - (e) in any other proceedings, the Tribunal has given a direction to do so.
- (2) The notice published under subrule (1)(a), (b), (c) or (e) must state—
- (a) that an application has been filed, a claim has been received or a direction has been given;
 - (b) the nature of the application, claim or direction;
 - (c) the names of the parties;
 - (d) if the application is made under section 84 of the Ordinance—
 - (i) the determination to which the application relates; and
 - (ii) the person by, and against, whom the application is made;
 - (e) the particulars of the relief sought by the applicant, claimant or parties;
 - (f) in a summary form, the grounds on which the applicant, claimant or parties relied; and
 - (g) that a person who has a sufficient interest in the matters to which the application, claim or direction relates may apply for leave to intervene in the proceedings, in accordance with rule 20, within—

- (i) 28 days from the date on which the notice is published; or
 - (ii) such other period as the President or the presiding member may direct.
- (3) The notice published under subrule (1)(d) must state—
 - (a) that certain proceedings before the CFI have been transferred from the CFI to the Tribunal;
 - (b) the nature of the matters to which the proceedings relate;
 - (c) the names of the parties;
 - (d) the particulars of the relief sought by the parties in the proceedings;
 - (e) in a summary form, the grounds on which the parties relied in the proceedings; and
 - (f) that a person who has a sufficient interest in the matters to which the proceedings relate may apply for leave to intervene in the proceedings, in accordance with rule 20, within—
 - (i) 28 days from the date on which the notice is published; or
 - (ii) such other period as the President or the presiding member may direct.

20. Intervention by third party (other than Commission)

- (1) A person (other than the Commission) who has a sufficient interest in the matters to which any proceedings relate may apply for leave to intervene in the proceedings.
- (2) If the proceedings relate to an application, claim, direction or proceedings referred to in rule 19(1), the application for leave to intervene must be made within the period

specified in rule 19(2)(g) or (3)(f), unless the Tribunal is satisfied that there is exceptional circumstance for extending time for making the application.

- (3) The application for leave to intervene must be made by filing the application in Form 3 in the Schedule.
- (4) The application must be served by the applicant on each party to the proceedings.
- (5) The Tribunal may invite the parties to file evidence and make representations on the application within the period specified by the Tribunal.
- (6) If the Tribunal is satisfied, having taken account of the evidence and representations of the parties, that the applicant has a sufficient interest, it may grant leave for the applicant to intervene in the proceedings, subject to any conditions imposed by the Tribunal.
- (7) On being granted the leave to intervene, the applicant is an intervener in the proceedings and the Tribunal may give any directions on the extent of participation of the intervener.
- (8) The directions under subrule (7) may include those relating to—
 - (a) the service on the intervener of the documents filed for the proceedings;
 - (b) the submission by the intervener of a statement of intervention that—
 - (i) contains a summary of the facts and arguments on which the intervener relies; and
 - (ii) specifies the relief sought by the intervener;
 - (c) if appropriate, the submission by the other parties of a response to the statement; and

- (d) the filing of affidavits.

21. Intervention by Commission

- (1) An application by the Commission for leave to intervene under section 120(3) of the Ordinance must be made by filing the application in Form 3 in the Schedule.
- (2) The application must be served by the Commission on each party to the proceedings.
- (3) Whether the application for leave to intervene is made inter partes or ex parte, the Tribunal may determine the application—
 - (a) without a hearing; or
 - (b) after inviting and considering the evidence and representations of the Commission and the parties.
- (4) Without affecting section 120(4) of the Ordinance, on granting leave to the Commission to intervene, the Tribunal may give any directions which may include those relating to—
 - (a) the service on the Commission of the documents filed for the proceedings;
 - (b) the submission by the Commission of a statement of intervention that—
 - (i) contains a summary of the facts and arguments on which the Commission relies; and
 - (ii) specifies the relief sought by the Commission;
 - (c) if appropriate, the submission by the other parties of a response to the statement; and
 - (d) the filing of affidavits.

- (5) Where leave to intervene is granted on an application made *ex parte* to the Tribunal, a party may apply to the Tribunal to set aside the leave.

22. Addition of parties

- (1) Without affecting rules 20 and 21, the Tribunal may, on the application of a person, permit the person or another person to be joined in the proceedings, in addition to, or in substitution of, any party to the proceedings.
- (2) Subject to subrule (1), Order 15 of the RHC applies to any proceedings.

23. Third party and similar proceedings

- (1) A party to any proceedings may not issue a notice under Order 16, rule 1(1) or 8(1) of the RHC without the leave of the Tribunal.
- (2) The party who has been granted leave under subrule (1) (*applying party*) must serve the notice on the person against whom it is issued within the time specified by the Tribunal.
- (3) The person on whom a notice is served under subrule (2) is not required to give a notice of intention to defend.
- (4) The applying party must within 14 days after the day on which the notice is served under subrule (2)—
 - (a) by filing a summons in Form 2 in the Schedule apply to the Tribunal for directions; and
 - (b) serve the summons on the person on whom the notice is served and every other party.
- (5) If the applying party does not apply for directions in accordance with subrule (4), the person on whom a notice is served under subrule (2) may—

- (a) by filing a summons in Form 2 in the Schedule apply to the Tribunal for directions; and
- (b) serve the summons on the applying party and every other party.
- (6) Subject to this rule, Order 16 (except rules 3(2), (3) and (4), 4(1) and (2) and 5(1)) of the RHC applies to any proceedings.

Division 4—Discovery and Inspection of Documents

24. Discovery and inspection of documents

- (1) A party may apply to the Tribunal for an order for discovery and production of a document relating to the proceedings from a person for inspection.
- (2) The application may be determined by the Tribunal with or without a hearing.
- (3) The Tribunal may make or refuse to make an order for discovery and production of a document having regard to all the circumstances of the case, including—
 - (a) the need to secure the furtherance of the purposes of the Ordinance as a whole;
 - (b) whether the information contained in the document sought to be discovered or produced is confidential;
 - (c) the balance between the interests of the parties and other persons; and
 - (d) the extent to which the document sought to be discovered or produced is necessary for the fair disposal of the proceedings.
- (4) Order 24 (except rules 1, 2, 3, 4 and 6) of the RHC applies to the discovery and production of documents in any proceedings.

Division 5—Case Management, etc.**25. Case management**

- (1) The Tribunal may from time to time—
 - (a) give directions relating to the management of any proceedings;
 - (b) fix the timetable for certain steps to be taken up to one or more of the following milestone dates—
 - (i) the date for a case management conference;
 - (ii) the date for a pre-trial review;
 - (iii) the date for the trial or the period in which the trial is to take place; and
 - (c) fix a date or period for other steps to be taken in the proceedings.
- (2) Order 25 (except rules 1, 1A, 1C, 8, 10 and 11) of the RHC applies to the management of any proceedings whether or not a case management summons is required to be filed.

26. Interrogatories

- (1) A party may not, without the leave of the Tribunal, serve on any other party interrogatories relating to any proceedings.
- (2) Subject to subrule (1), Order 26 of the RHC applies to any proceedings.

27. Direction to file pleadings

The Tribunal may direct the parties to file pleadings at any stage of the proceedings as the Tribunal thinks fit.

Division 6—Hearings, etc.**28. Hearing in public**

- (1) The hearing of all proceedings except on interlocutory applications must be heard in open court, unless the Tribunal otherwise directs.
- (2) All interlocutory applications before the Tribunal must be heard in chambers, unless the Tribunal otherwise directs.

29. Composition of Tribunal and appointment of assessor

- (1) The hearing of any proceedings is to be conducted before a member of the Tribunal, unless the President otherwise directs.
- (2) For the purpose of subrule (1), the President may, either of his or her own motion or on application, direct that the hearing is to be conducted before more than one member of the Tribunal.
- (3) Any member of the Tribunal conducting a hearing may, either of his or her own motion or on application, direct that the hearing is to be conducted with one or more specially qualified assessors.

30. Right of audience

- (1) In any proceedings, a party—
 - (a) subject to subrule (2), may appear in person and be heard; or
 - (b) may be represented by—
 - (i) a counsel or solicitor having a right of audience before the CFI in its civil jurisdiction; or
 - (ii) any other person allowed with the leave of the Tribunal to appear on the party's behalf.

- (2) If the party is a body corporate and intends to be represented by one of its directors in the proceedings—
 - (a) Order 5, rule 6 of the RHC applies to the party who is an applicant or plaintiff; and
 - (b) Order 12, rule 1(2A), (2B), (2C) and (2D) of the RHC applies to the party who is a respondent or defendant.

31. Disposal of proceedings

- (1) This rule does not apply to an interlocutory application.
- (2) If no party appears at the time and place appointed for the hearing of the proceedings concerned, the Tribunal may dismiss the proceedings for want of appearance.
- (3) If a party does not appear in the hearing, the Tribunal may—
 - (a) consider the evidence and submissions of the party or parties appearing and dispose of the proceedings;
 - (b) on the application of the respondent appearing, dismiss the proceedings for want of appearance of the applicant;
 - (c) on the application of the applicant appearing—
 - (i) enter judgment against the respondent absent from the proceedings; or
 - (ii) make such decisions as the Tribunal thinks fit; or
 - (d) adjourn the hearing on such terms as to costs or otherwise as the Tribunal thinks fit.

- (4) In this rule—

applicant (申請人) includes a plaintiff;

respondent (答辯人) includes a defendant.

32. Disposal of interlocutory applications

- (1) If no party appears at the time and place appointed for the hearing of the interlocutory application concerned, the Tribunal may dismiss the application for want of appearance.
- (2) If a party to the interlocutory application does not appear in the hearing, the Tribunal may—
 - (a) consider the submissions of the party or parties appearing and dispose of the application;
 - (b) on the application of the respondent appearing, dismiss the interlocutory application for want of appearance of the applicant;
 - (c) on the application of the applicant appearing—
 - (i) grant the order sought against the respondent absent from the interlocutory application; or
 - (ii) make such decisions as the Tribunal thinks fit; or
 - (d) adjourn the hearing on such terms as to costs or otherwise as the Tribunal thinks fit.

(3) In this rule—

applicant (申請人) means the party making the interlocutory application;

respondent (答辯人) means the party responding to the interlocutory application.

33. Conduct of hearings

- (1) The Tribunal may, in its absolute discretion, decide—
 - (a) which party has the right to begin or reply at the hearing; and

- (b) the order and number of addresses by the parties or their respective counsel, solicitors or any other person allowed by rule 30.
- (2) The Tribunal may direct that written submissions be made instead of, or in addition to, addresses made to the Tribunal by or on behalf of the parties.

34. Judgment given in absence of party may be set aside

- (1) If a party does not appear at the hearing of any proceedings in which a judgment is given, the judgment must be served on the party.
- (2) The Tribunal may, on the application of the party, set aside the judgment on the terms that the Tribunal thinks just.
- (3) The application must be made within 14 days after the day on which the judgment is served.
- (4) In this rule—

judgment (判決) includes a decision, a determination or an order of the Tribunal.

35. Mode of taking evidence

Subject to section 147 of the Ordinance, the evidence of witnesses at the hearing of any proceedings may be taken orally on oath or affirmation, or by affidavit, declaration or otherwise as the Tribunal thinks fit.

36. Witness summons

- (1) On application by a party to any proceedings in Form 4 in the Schedule and payment of a deposit in the sum of \$500 in respect of the witness's reasonable expenses, the presiding member may issue a witness summons requiring

a person to attend a hearing of the proceedings in Form 5 in the Schedule.

- (2) In any proceedings, the Tribunal may order the reimbursement by one or more of the parties to a witness who has been served with a witness summons in respect of any expenses reasonably and properly incurred by that witness.
- (3) Any expenses ordered by the Tribunal to be paid must be assessed by the Tribunal or, if no such assessment is made, must be taxed (if not agreed) and paid by the party ordered to make the payment.
- (4) If the party ordered to make payment of the witness's expenses is the party who paid the deposit under subrule (1), the witness may—
 - (a) recover the expenses, after assessment, agreement or taxation, from the deposit; and
 - (b) recover the balance, if any, from the party.
- (5) The deposit (or any part of it that remains after payment to the witness under subrule (4)) must be refunded to the party that paid the deposit if—
 - (a) that party was not ordered to pay the costs of the witness; or
 - (b) that party was ordered to pay the costs of the witness and has effected payment of the costs after assessment, agreement or taxation.

37. Confidential treatment of information

- (1) A party (*the applicant*) may apply for an order to treat the whole or part of the following document as confidential—
 - (a) a document (other than an originating document) filed in connection with any proceedings; or

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- (b) a document (including an originating document) intended to be filed, served or otherwise disclosed in connection with any proceedings.
 - (2) The application must be—
 - (a) made in writing;
 - (b) made as soon as reasonably practicable; and
 - (c) supported by an affidavit, unless otherwise directed by the Tribunal.
 - (3) The application must—
 - (a) specify—
 - (i) the document or part of the document for which confidentiality is requested;
 - (ii) the person or class of persons against whom confidentiality is asserted; and
 - (iii) the reasons for the request and assertion; and
 - (b) where the document has not been filed, be accompanied by an unredacted version of the document if it is available to the applicant.
 - (4) The unredacted version of the document referred to in subrule (3)(b), regardless of whether it has been filed or not, need not be served on the parties concerned pending the decision or approval of the Tribunal under subrule (5).
 - (5) The Tribunal may—
 - (a) decide the application on paper or after hearing the parties; and
 - (b) disallow or approve the application to such extent and on such terms as the Tribunal thinks fit.
 - (6) In considering an application under this rule, the Tribunal must have regard to all the circumstances of the case, including—

- (a) the public interest;
- (b) for any commercial information relating to an undertaking—the legitimate business interests of the undertaking;
- (c) for any information relating to the private affairs of a natural person—the interests of the natural person; and
- (d) the interests of justice.

38. Adjournment

The Tribunal may adjourn a hearing of any proceedings to the time and place, and on the terms, that the Tribunal thinks fit.

39. Orders made by consent in proceedings under Part 3, 4, 5 or 6

- (1) If the parties have agreed on the terms of an order to be made by the Tribunal in any proceedings under Part 3 or 4, the agreed terms, signed by or on behalf of the parties, must be sent to the Tribunal for approval.
- (2) The Tribunal may make an order by consent in those proceedings with or without a hearing having regard to—
 - (a) the agreed terms; and
 - (b) any information submitted by the parties in support of those terms.
- (3) In subrules (1) and (2)—
order (命令) includes any finding, determination or decision.
- (4) Subject to this rule, Order 42 (except rule 5A) of the RHC applies to any proceedings under Part 3 or 4.
- (5) If the parties have agreed on the terms of an order to be made by the Tribunal in any proceedings under Part 5 or 6, Order 42 of the RHC applies to the proceedings.

40. Frivolous or vexatious proceedings

- (1) The Tribunal may, either of its own motion or on application of a party, at any stage of the proceedings, order an application or a claim, response, defence or reply filed in respect of the proceedings to be struck out or amended on the grounds that—
 - (a) it discloses no reasonable cause of action or defence;
 - (b) it is scandalous, frivolous or vexatious;
 - (c) it may prejudice, embarrass or delay the fair trial of the proceedings; or
 - (d) it is otherwise an abuse of the process of the Tribunal.
- (2) The Tribunal may order the proceedings to be stayed or dismissed or judgment to be entered accordingly.
- (3) No evidence is admissible on an application under subrule (1)(a).

Division 7—Registrar

41. Jurisdiction, powers and duties of Registrar

- (1) Without limiting section 156A(1) of the Ordinance, and subject to subrules (2) and (3), the Registrar also has power to transact all the business and exercise all the authority and jurisdiction that under the Ordinance or these Rules may be transacted and exercised by a member of the Tribunal in chambers.
- (2) The Registrar has no jurisdiction to deal with—
 - (a) an application for an interim order under section 95 or 98 of the Ordinance; or

- (b) an application for an order (including an order for the interim preservation of property) or an interlocutory injunction under Part I of Order 29 of the RHC.
- (3) However, the Registrar may deal with the application specified in subrule (2) if—
 - (a) a presiding member directs that the Registrar may do so; or
 - (b) the application is made in terms agreed by all the parties.
- (4) The Registrar may adjourn an application to be heard by a member of the Tribunal.
- (5) Subject to the Ordinance, the Registrar may, under the direction of the President, hear and determine an application or matter under the Ordinance.

Division 8—Appeal

- 42. Appeal against decision, etc. of Registrar to member of Tribunal**
- (1) A party may appeal against any interlocutory decision, determination or order of the Registrar given or made in relation to the proceedings concerned to a member of the Tribunal.
 - (2) The appeal must be brought by—
 - (a) filing a notice in Form 6 in the Schedule within 14 days after the day on which the interlocutory decision, determination or order is given or made; and
 - (b) serving a copy of the notice on every other party within 5 days after the day on which the notice is filed.

- (3) The appeal is to be heard in chambers.
- (4) The appeal must not be heard less than 2 clear days after the day on which the notice is served.
- (5) Unless the Tribunal otherwise directs, the appeal does not operate as a stay of the proceedings in which the appeal is brought.
- (6) No further evidence may be received on the hearing of the appeal except on special grounds.
- (7) Subrule (6) does not apply to evidence as to matters which have occurred after the date on which the interlocutory decision, determination or order is given or made.

43. Appeal against decision, etc. of Registrar to Court of Appeal

- (1) An appeal lies to the Court of Appeal against any decision, determination or order (other than an interlocutory decision, determination or order) of the Registrar given or made—
 - (a) on the hearing or determination of any cause, matter, question or issue tried before the Registrar under Order 14, rule 6(2) and Order 36, rule 1 of the RHC;
 - (b) on an assessment of damages under Order 37 of the RHC or otherwise;
 - (c) on the hearing or determination of an application under Order 49B of the RHC; or
 - (d) on the hearing or determination of a disqualification application mentioned in rule 78(2)(b) or an application under rule 83 or 84.
- (2) In this rule, a reference to a provision in the RHC is a reference to the provision as applied under rule 4.

44. Interlocutory order for purposes of section 155(2) of Ordinance (where appeal lies as of right)

- (1) For the purposes of section 155(2) of the Ordinance, the following are interlocutory decisions, determinations or orders against which an appeal lies to the Court of Appeal as of right—
 - (a) a decision, a determination or an order that determines in a summary way the substantive rights of a party;
 - (b) an order disallowing, or requiring a legal representative to meet, the whole or any part of the wasted costs;
 - (c) an order for the imprisonment of a judgment debtor made under Order 49B of the RHC as applied under rule 4;
 - (d) an order prohibiting a judgment debtor from leaving Hong Kong;
 - (e) an order of committal for contempt of the Tribunal;
 - (f) a decision refusing to grant leave to apply for a review of a reviewable determination under section 84(2) of the Ordinance;
 - (g) an order refusing an extension of time under sections 94(3) and 99(3) of the Ordinance.
- (2) Without limiting subrule (1)(a), the following are decisions, determinations or orders that determine in a summary way the substantive rights of a party—
 - (a) an order that strikes out—
 - (i) the whole or part of an application or other proceedings;

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- (ii) the whole or part of a notice of application, notice of claim, statement of claim, response, defence or reply;
 - (b) a summary judgment given under Order 14 of the RHC as applied under rule 4;
 - (c) a decision, a determination or an order that determines a question of law or construction of a document without a full trial of the action;
 - (d) a decision, a determination or an order that dismisses a cause or matter on the determination of a question of law or construction of a document without a full trial of the action;
 - (e) a decision, a determination or an order on a preliminary issue;
 - (f) an order that dismisses or strikes out an application or other proceedings for want of prosecution;
 - (g) a decision or determination obtained pursuant to an “unless” order;
 - (h) a decision refusing to set aside a judgment in default;
 - (i) a decision refusing to allow—
 - (i) an amendment to a notice of application or claim to add new issues or claims; or
 - (ii) an amendment to a response or defence to add new issues or defence;
 - (j) a decision, a determination or an order on admissions of fact or of part of a case.
- (3) A direction as to whether a decision, a determination or an order is one that falls within subrule (1)(a) may be sought from the member of the Tribunal who made, or will make, the decision, determination or order.

- (4) A reference to an order specified in subrule (1)(b), (c), (d) and (e) includes an order that refuses to make, varies or discharges the order.
- (5) In subrule (2)(g)—
“unless” order (“限時履行”的命令) means an order made by the Tribunal that—
 - (a) requires a person to take an action within the period specified in the order; and
 - (b) specifies the consequence for failure to comply with the requirement under paragraph (a).

45. Procedure on application for leave to appeal

- (1) For the purposes of section 155 of the Ordinance, an application for leave to appeal against an interlocutory decision, determination or order of the member or members of the Tribunal must be made to the Tribunal in the first instance within 14 days from the date of the decision, determination or order, unless the Court of Appeal allows the application for leave to be made direct to the Court of Appeal under Order 59, rule 2BA(2) of the RHC.
- (2) So far as is practicable, the application for leave must be made to the member or members of the Tribunal against whose decision, determination or order that the leave to appeal is sought.
- (3) The application must be made *inter partes* if the proceedings to which the decision, determination or order relates are *inter partes*.

Division 9—Transfer of Proceedings from Tribunal to CFI

46. Interpretation of Division 9

In this Division—

transfer order (移交令) means an order made by the Tribunal for the transfer of proceedings from the Tribunal to the CFI under section 114 of the Ordinance.

47. Transfer of proceedings from Tribunal to CFI

- (1) A transfer order may be made by the Tribunal either of its own motion or on application of a party.
- (2) The application must be made by filing a summons in Form 2 in the Schedule setting out the scope of the proceedings, or the part of the proceedings, to be transferred to the CFI.

48. Duties of Registrar after transfer of proceedings from Tribunal to CFI

If the Tribunal has made a transfer order, the Registrar of the Tribunal must, as soon as practicable after the transfer order has been sealed, send to the Registrar of the High Court—

- (a) all documents issued out of, or filed or lodged in, the Tribunal in the proceedings transferred by the transfer order;
- (b) any notes of the proceedings made by the Registrar, or a member, of the Tribunal; and
- (c) any transcripts or other records of the proceedings.

49. Proceedings transferred from Tribunal to CFI: effects of transfer

- (1) On making a transfer order, the Tribunal may give further directions as to the transfer of suitors' funds to the CFI.

- (2) The making of a transfer order does not affect—
- (a) any right of appeal to the Tribunal or the Court of Appeal against—
 - (i) the transfer order itself; or
 - (ii) any judgment, decision, determination or order made by the Tribunal in the proceedings before the transfer order was made; or
 - (b) the right to enforce in the Tribunal any judgment, decision, determination or order made by the Tribunal before the transfer.

Division 10—Supplementary Provisions

50. Time

- (1) Order 3 (except rule 5) of the RHC applies to the computation, extension and abridgement of time under the Ordinance and these Rules.
- (2) The Tribunal may, either of its own motion or on application, and on such terms as the Tribunal thinks just, by order extend or abridge the time (whether expired or not) fixed by these Rules or by any judgment, decision, determination or order for doing any act.

51. Sittings and days on which Tribunal opens

- (1) Order 64, rules 1, 2, 3 and 3A of the RHC do not apply to the sittings of the Tribunal.
- (2) Order 64, rule 7 of the RHC applies in respect of the days on which the offices of the Tribunal are to open and the office hours as if a reference to the High Court were a reference to the Tribunal.

52. Proof of decisions, block exemption orders and commitments, etc.

- (1) In any proceedings under the Ordinance or these Rules, a copy of the register, or any part of it, maintained—
 - (a) under section 34 of the Ordinance in respect of decisions and block exemption orders;
 - (b) under section 64 of the Ordinance in respect of commitments; and
 - (c) under section 16 of Schedule 7 to the Ordinance in respect of decisions on merger,

certified by the Chief Executive Officer of the Commission or a person duly authorized by that Officer is, on its production without further proof, to be admitted in the proceedings as prima facie evidence of the matters recorded in it.
- (2) Where the Communications Authority performs the functions of the Commission under section 159(1) of the Ordinance, the reference in subrule (1) to the Chief Executive Officer of the Commission is to be read as including the Director-General of the Communications Authority.

53. Use of language in Tribunal

- (1) The Tribunal may use either or both of the official languages in any proceedings as it considers appropriate for the just and expeditious disposal of the proceedings.
- (2) The decision of the Tribunal under subrule (1) is final.
- (3) A party to, or a witness in, any proceedings may—
 - (a) use either or both of the official languages; and
 - (b) address the Tribunal or testify in any language.

- (4) A legal representative in any proceedings may use either or both of the official languages.
- (5) Documents prepared for use by or filed in the Tribunal in any proceedings may be in either official language.
- (6) A party may file any document to be served on another party or person in either official language.
- (7) The official record of proceedings must be kept in the official language or official languages as the presiding member hearing the proceedings may direct.
- (8) In this rule, a reference to any proceedings includes a part of the proceedings.

54. Translation of document to be used in Tribunal

- (1) A party served with a document (*requesting party*) in an official language with which the party is not familiar may, within 3 days of being served with the document, request in writing the party serving the document (*serving party*) to provide a translation of the document into the other official language.
- (2) The serving party must, within 3 days of receiving the request, indicate in writing whether that party will provide the translation or not.
- (3) The serving party who agrees to provide a translation must do so as soon as practicable.
- (4) If the requesting party's request is refused, that party may apply to the Tribunal for an order that the serving party must provide the requesting party with a translation of the document.
- (5) The Tribunal may—

- (a) order the serving party to provide a translation of the document if the Tribunal is satisfied that the request is reasonable; and
 - (b) order that the time for compliance with any rule or order requiring the taking of any step in proceedings within a particular period will not start to run until the translation is received by the requesting party.
- (6) A party applying for an order from the Tribunal under subrule (4) must—
- (a) supply the minutes for the order in the language in which the order is to be made; and
 - (b) produce a certified translation of the order in the other official language if the Tribunal directs that the other version is necessary or appropriate.
- (7) The costs of, and incidental to, providing a translation under this rule are costs in the cause of the proceedings, unless the Tribunal otherwise directs.

55. Right of parties to inspect, etc. certain documents filed in Tribunal

- (1) A party to any proceedings may search for, inspect and obtain a copy of the following documents—
- (a) the copy of an originating document filed in respect of the proceedings; and
 - (b) any judgment given or order made by the Tribunal or the copy of that judgment or order.
- (2) A party to any proceedings may, with the leave of the Tribunal, search for, inspect and obtain a copy of any affidavit or other documents—
- (a) filed in respect of those proceedings; or

- (b) filed before the commencement of those proceedings but made with a view to their commencement.
- (3) An application for the leave under subrule (2) may be made *ex parte*.
- (4) The party may search for, inspect and obtain a copy of the documents during the hours that the Registrar may direct.

56. Right of persons (other than parties) to inspect, etc. certain documents filed in Tribunal

- (1) A person (other than a party to the proceedings concerned) may, on payment of the prescribed fee, search for, inspect and obtain a copy of any of the following documents—
 - (a) the copy of an originating document filed in respect of the proceedings;
 - (b) any judgment given or order made by the Tribunal or the copy of that judgment or order;
 - (c) with the leave of the Tribunal, any other document filed in respect of the proceedings.
- (2) An application for the leave under subrule (1)(c) may be made *ex parte*.
- (3) The person may search for, inspect and obtain a copy of the documents during the hours that the Registrar may direct.

57. Amendment of documents

- (1) The Tribunal may, at any stage of the proceedings, allow a party to amend any of the documents that the party filed subject to any terms that the Tribunal thinks fit.

- (2) The documents referred to in subrule (1) include documents filed in the CFI relating to proceedings transferred from the CFI to the Tribunal under section 113 of the Ordinance.
- (3) Subject to subrule (1), Order 20 (except rules 1, 3 and 4) of the RHC applies to the amendment of the documents.

58. Clerical mistakes and slips

The Tribunal may, at any time, correct—

- (a) a clerical mistake in a judgment, decision or determination or an order; or
 - (b) an error arising from an accidental slip or omission.
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Part 3

Review of Reviewable Determination

59. Interpretation of Part 3

In this Part—

applicant (申請人), in relation to an application for leave referred to in rule 60, means the person who applies for the leave;

respondent (答辯人), in relation to an application for leave referred to in rule 60, means the person who is named as a respondent in the application.

60. Application for leave

- (1) An application for leave to apply for a review of a reviewable determination under section 84(2) of the Ordinance must be made *ex parte* by filing—
 - (a) a notice of application for leave in Form 7 in the Schedule setting out the relief sought; and
 - (b) an affidavit in support of the application.
- (2) The affidavit must—
 - (a) verify the facts on which the applicant relies; and
 - (b) exhibit the documents relevant to the application.
- (3) If the application is not made within the time prescribed in section 88(1) of the Ordinance, the notice filed under subrule (1)(a) must set out the extension of time sought under section 88(2) of the Ordinance and the grounds for that extension.

- (4) The applicant must, within 1 day after making the application for leave, serve on the respondent all the documents that have been filed under subrule (1).

61. Determination of leave application

- (1) An application for leave under rule 60 may be determined by a member of the Tribunal without a hearing.
- (2) If the application is determined without a hearing, the Registrar must notify the applicant of the result.
- (3) If the Tribunal considers that a hearing is necessary or the applicant requests for a hearing, the Registrar must—
 - (a) fix a date for the hearing; and
 - (b) give notice to the applicant and such other persons as the Tribunal thinks fit.
- (4) The hearing must be open to the public, unless the Tribunal otherwise directs.

62. Leave with terms and directions

- (1) If the Tribunal grants leave to make an application for a review of a reviewable determination under section 84(2) of the Ordinance, it may—
 - (a) specify the grounds in respect of which leave is granted; and
 - (b) impose terms (including those relating to costs and security) that the Tribunal thinks fit.
- (2) If the Tribunal grants leave to make an application for review, then, unless the Tribunal otherwise directs, the application for leave is to stand as an application for that review, and the application for that review is regarded as having been made on the date on which the application for leave is made.

- (3) The Tribunal may give directions as to the further conduct of the application for the review when it grants leave to make the application or at any time after that.

63. Appeal against refusal of leave

If the Tribunal—

- (a) refuses to grant leave to make an application for a review of a reviewable determination under section 84(2) of the Ordinance; or
- (b) grants leave to make the application on terms,

the applicant may appeal to the Court of Appeal against the decision in accordance with Order 59 of the RHC.

64. Application for review

- (1) The applicant of an application for leave under rule 60 must, within 7 days after the day on which the leave was granted, serve on—
 - (a) the respondent and the interested parties that the Tribunal may direct—
 - (i) the order granting the leave; and
 - (ii) any directions given by the Tribunal under rule 62(3); and
 - (b) the interested parties that the Tribunal may direct all the documents that have been filed under rule 60(1).
- (2) The applicant must not raise, or rely on, a ground that is not set out in the application for leave under rule 60 in the hearing of the application for review except with the permission of the Tribunal.

65. Response by respondent

The respondent must, within 28 days after the day on which the documents are served under rule 64(1)—

- (a) file a response and an affidavit in opposition; and
- (b) serve on the applicant and the interested parties that the Tribunal may direct—
 - (i) the response; and
 - (ii) the affidavit in opposition.

66. Failure to file response

- (1) If the respondent fails to file a response within the time specified in rule 65, the applicant may apply to the Tribunal for an order granting the relief sought in the application against the respondent.
- (2) The Tribunal may make an order granting the relief sought, proceed to hear and determine the application, or give any directions that the Tribunal thinks fit.
- (3) If the Tribunal makes an order under subrule (2), the order must be served on the respondent.
- (4) The Tribunal may, on the application of the respondent, set aside the order on the terms that the Tribunal thinks just.
- (5) An application for the purpose of subrule (4) must be made within 14 days after the day on which the order is served.

67. Affidavit in reply

The applicant may, within 28 days after the day on which the response and affidavit in opposition are served under rule 65—

- (a) file an affidavit in reply; and

- (b) serve the affidavit on the respondent and the interested parties that the Tribunal may direct.

68. Further documents filed or served by parties

After an affidavit in reply is filed under rule 67 or after the expiry of the 28-day period mentioned in that rule, the parties to the application must not file or serve any further documents except with the leave of the Tribunal.

69. Withdrawal of application

- (1) The applicant may, at any time, withdraw the application filed under rule 60 with the leave of the Tribunal.
- (2) The Tribunal may grant leave to the applicant to withdraw the application on the terms that the Tribunal thinks fit.

70. Stay of execution of reviewable determination

An application for a stay of execution of a determination under section 89(2) of the Ordinance must be made by filing—

- (a) a summons in Form 2 in the Schedule; and
- (b) an affidavit in support of the application.

71. Application to state case for Court of Appeal

- (1) An application to refer a question of law to the Court of Appeal under section 86 of the Ordinance must be made by filing a summons in Form 2 in the Schedule.
- (2) If the application is made after the determination of an application for a review made under section 84 of the Ordinance, it must be made within 28 days after the day on which the determination is made.
- (3) The applicant must—

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- (a) file the application and support it by a draft of the case stated; and
 - (b) serve the application and the draft of the case stated on every other party to the review within 7 days after the day on which they are filed.
 - (4) The Tribunal may determine the application with or without a hearing.
 - (5) The Registrar must notify every other party to the review about the decision of the Tribunal if it determines the application without a hearing.
 - (6) Order 61, rules 2 and 3 of the RHC apply to an application referred to in subrule (1).
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Part 4

Applications for Enforcement before Tribunal

Division 1—Preliminary

72. Interpretation of Part 4

In this Part—

applicant (申請人)—

- (a) in relation to an application referred to in rule 74 or 83, means the person who files an originating notice of application under that rule;
- (b) in relation to an application referred to in rule 84, means the person who files a summons under that rule;

disqualification application (取消資格申請) means an application for a disqualification order under section 101(1) of the Ordinance;

enforcement application (強制執行申請) means an application referred to in rule 73(a), (b) or (c);

respondent (答辯人)—

- (a) in relation to an application referred to in rule 74 or 83, means the person who is named as a respondent in the originating notice of application filed under that rule; or
- (b) in relation to an application referred to in rule 84, means the person who is named as a respondent in the summons filed under that rule.

Division 2—Application for Enforcement of Commitments and other Enforcement before Tribunal

73. Application of Division 2

This Division applies to—

- (a) an application for enforcement of a commitment under section 63 of the Ordinance;
- (b) an application for enforcement before the Tribunal under Part 6 of the Ordinance;
- (c) an application for an order imposing a financial penalty under section 169 of the Ordinance; and
- (d) a disqualification application made together with an enforcement application.

74. Mode of application

- (1) An application to which this Division applies must be made by filing an originating notice of application in Form 1 in the Schedule setting out—
 - (a) the grounds for the application;
 - (b) the material facts relating to the application; and
 - (c) the relief sought by the applicant.
- (2) The applicant must serve a copy of the originating notice of application on the respondent.

75. Response by respondent

A respondent who is served with an originating notice of application under rule 74(2) must, within 28 days after the day on which the document is served—

- (a) file a response; and
- (b) serve a copy of the response on the applicant.

76. Failure to file response

- (1) If the respondent fails to file a response within the time specified in rule 75, the applicant may apply to the Tribunal for an order granting the relief sought in the application against the respondent.
- (2) The Tribunal may make an order granting the relief sought, proceed to hear and determine the application, or give any directions that the Tribunal thinks fit.
- (3) If the Tribunal makes an order under subrule (2), the order must be served on the respondent.
- (4) The Tribunal may, on the application of the respondent, set aside the order on the terms that the Tribunal thinks just.
- (5) An application for the purpose of subrule (4) must be made within 14 days after the day on which the order is served.

77. Reply by applicant

The applicant may, within 28 days after the day on which the response is served under rule 75—

- (a) file a reply to the response; and
- (b) serve a copy of the reply on the respondent.

78. Directions by Tribunal after application

- (1) At any stage after an originating notice of application is filed under rule 74, the Tribunal may, from time to time and in addition to its power exercisable under rules 25 and 27, give any directions about the further conduct of the application, including the filing of—
 - (a) an affidavit;
 - (b) any witness statements;

- (c) any expert evidence; and
 - (d) any other evidence or documents.
- (2) For an application referred to in rule 73(d), the direction under subrule (1) may provide that—
 - (a) the application is to be heard by a member of the Tribunal; or
 - (b) the part relating to the disqualification application is to be transferred to be heard by the Registrar.

79. Withdrawal of application

- (1) The applicant may, at any time, withdraw the application filed under rule 74 with the leave of the Tribunal.
- (2) The Tribunal may grant leave to the applicant to withdraw the application on the terms that the Tribunal thinks fit.

80. Application for extension of time under section 94(3) or 99(3) of Ordinance

- (1) An application for extension of time under section 94(3) or 99(3) of the Ordinance must be made ex parte and supported by an affidavit.
- (2) An application to set aside an order for extension of time must be made—
 - (a) by filing a summons in Form 2 in the Schedule; and
 - (b) within 14 days after the day on which the order is served.

81. Interim orders

- (1) An application for an interim order or its extension under section 95 of the Ordinance must be made by filing—
 - (a) a summons in Form 2 in the Schedule; and

- (b) an affidavit in support of the application.
- (2) An application for an interim order under section 98 of the Ordinance must be made by filing—
 - (a) a summons in Form 2 in the Schedule; and
 - (b) an affidavit in support of the application.
- (3) If the case is urgent and there are special circumstances, the application may be made ex parte and supported by an affidavit setting out the grounds for the application.
- (4) An interim order made by the Tribunal may include—
 - (a) such terms as to costs or otherwise; and
 - (b) such conditions as the Tribunal thinks just.
- (5) A party affected by the interim order may apply to the Tribunal to vary the order or set it aside.

Division 3—Application for Disqualification Orders and for Leave to Participate in Company’s Affairs

82. Application for disqualification order

A disqualification application—

- (a) made together with an enforcement application referred to in rule 73(d) is to be made in accordance with Division 2; and
- (b) made as a separate application is to be made in accordance with this Division.

83. Application for disqualification order as separate application

- (1) A disqualification application as a separate application must be made by filing—
 - (a) an originating notice of application in Form 1 in the Schedule; and

(b) an affidavit in support of the application.

- (2) The applicant must serve on the respondent a copy of the originating notice of application and the supporting affidavit filed under subrule (1).

84. Application for leave to participate in company’s affairs

- (1) An application for leave of the Tribunal to participate in the affairs of a company under section 104(2) of the Ordinance must be made by filing—

- (a) a summons in Form 2 in the Schedule; and
(b) an affidavit in support of the application.

- (2) The applicant must serve on the Commission a copy of the summons and the supporting affidavit filed under subrule (1).

85. Opposition

The respondent who is served with an originating notice of application or a summons under rule 83 or 84 must, within 28 days after the day on which the documents are served—

- (a) file an affidavit in opposition; and
(b) serve a copy of the affidavit on the applicant.

86. Failure to file affidavit in opposition

- (1) If the respondent fails to file an affidavit in opposition within the time specified in rule 85, the applicant may apply to the Tribunal for an order granting the relief sought in the application against the respondent.
- (2) The Tribunal may make an order granting the relief sought, proceed to hear and determine the application, or give any directions that the Tribunal thinks fit.

- (3) If the Tribunal makes an order under subrule (2), the order must be served on the respondent.
- (4) The Tribunal may, on the application of the respondent, set aside the order on the terms that the Tribunal thinks just.
- (5) An application for the purpose of subrule (4) must be made within 14 days after the day on which the order is served.

87. Affidavit in reply by applicant

The applicant may, within 21 days after the day on which the affidavit in opposition is served under rule 85—

- (a) file an affidavit in reply to the affidavit in opposition; and
- (b) serve a copy of the affidavit in reply on the respondent.

88. Further documents filed or served by parties

After an affidavit in reply is filed under rule 87 or after the expiry of the 21-day period mentioned in that rule, the parties to the application must not file or serve any further documents except with the leave of the Tribunal.

89. Hearing in public

- (1) An application referred to in rule 83 or 84 may be heard before the Registrar.
- (2) The Registrar may transfer the application to be heard by a member or members of the Tribunal if the Registrar thinks fit.

- (3) The application must be heard in open court, whether by the Registrar or a member or members of the Tribunal, unless the Registrar or member or members otherwise direct.

90. Making and setting aside of order

- (1) The Tribunal may make a disqualification order against the respondent whether or not the respondent appears at the hearing.
- (2) A disqualification order made in the absence of the respondent may be varied or set aside by the Tribunal on the terms that the Tribunal thinks just.

91. Withdrawal of application

- (1) The applicant may, at any time, withdraw the application filed under rule 83 or 84 with the leave of the Tribunal.
 - (2) The Tribunal may grant leave to the applicant to withdraw the application on the terms that the Tribunal thinks fit.
-

Part 5

Follow-on Actions

92. Interpretation of Part 5

In this Part—

defendant (被告人), in relation to a claim under section 110 of the Ordinance, means the person who is named as the defendant in the claim;

follow-on action (後續訴訟) means a claim under section 110 of the Ordinance;

plaintiff (原告人), in relation to a claim under section 110 of the Ordinance, means the person who brings the claim.

93. Mode of commencing follow-on actions

- (1) A follow-on action must be brought by filing an originating notice of claim in Form 8 in the Schedule and a statement of claim.
- (2) The statement of claim may be indorsed on the originating notice of claim.
- (3) However, if the statement of claim is not indorsed under subrule (2), the statement of claim and the originating notice of claim may be filed separately, but in this case, the statement and the notice must be filed on the same date, unless the Tribunal otherwise directs.
- (4) The originating notice of claim must specify the decision of the specified court or admission in a commitment on which the plaintiff relies to establish a contravention of a conduct rule.

- (5) The statement of claim must specify the particular part of the decision or commitment referred to in subrule (4) which determines or admits that a relevant act is a contravention of a conduct rule.
- (6) The plaintiff must serve on the defendant a copy of the originating notice of claim and, if applicable, the statement of claim filed under subrule (3).
- (7) In this rule—

specified court (指明法院) means—

- (a) the Tribunal;
- (b) the CFI;
- (c) the Court of Appeal; or
- (d) the Court of Final Appeal.

94. Applications under section 111(2) of Ordinance

- (1) An application for permission under section 111(2) of the Ordinance must be made by filing—
 - (a) an originating notice of application in Form 1 in the Schedule; and
 - (b) an affidavit in support of the application setting out the grounds for the application and the material facts in support.
- (2) The Tribunal may only grant permission after seeking the representation of the party against whom the follow-on action is to be brought.
- (3) The Tribunal may receive the representation at a hearing or in writing.

95. Defence by defendant

The defendant must, within 28 days after the day on which the originating notice of claim is served under rule 93(6)—

- (a) file a defence; and
- (b) serve a copy of the defence on the plaintiff.

96. Reply by plaintiff

The plaintiff may within 28 days after the defence is served under rule 95—

- (a) file a reply; and
- (b) serve a copy of the reply on the defendant.

97. Further conduct after reply or expiry of time for reply

- (1) After the reply is filed under rule 96 or after the expiry of the 28-day period mentioned in that rule, the plaintiff must take out a case management summons.
- (2) If the plaintiff does not take out a case management summons in accordance with subrule (1), the defendant may—
 - (a) take out a case management summons; or
 - (b) apply for an order to dismiss the follow-on action.
- (3) On application by the defendant for an order to dismiss the follow-on action under subrule (2), the Tribunal may either—
 - (a) make an order to dismiss the action on such terms as the Tribunal thinks just; or
 - (b) deal with the application as if it were a case management summons.

Competition Tribunal Rules

Part 5
Rule 97

L.N. 109 of 2015
B1911

- (4) Order 25 (except rules 1, 1A, 1C, 8, 10 and 11) of the RHC applies to the proceedings to which the case management summons relates.
-

Part 6

Proceedings Transferred from CFI

98. Interpretation of Part 6

In this Part—

transfer order (移交令) means an order made by the CFI for the transfer of proceedings from the CFI to the Tribunal under section 113 of the Ordinance.

99. Procedures after transfer of proceedings from CFI to Tribunal

- (1) The Registrar must, as soon as practicable after the receipt of the documents sent under Order 78A, rule 3 of the RHC in relation to a transfer order—
 - (a) give notice of the transfer and the receipt of the documents to—
 - (i) all the parties to the proceedings transferred by the transfer order; and
 - (ii) the Commission; and
 - (b) appoint a date for a hearing before the Tribunal for giving directions as to the further conduct of the proceedings.
- (2) A party must, within 14 days after the receipt of the notice given under subrule (1)(a), in writing acknowledge receipt of the notice.
- (3) At the hearing mentioned in subrule (1)(b), the Tribunal may give any directions as to the further conduct of the proceedings, including the procedures to be adopted in the proceedings.

100. Proceedings transferred from CFI to Tribunal: effects of transfer

- (1) Proceedings transferred by a transfer order are regarded as having been transferred to the Tribunal on the date on which the order is made, unless the Tribunal otherwise directs.
- (2) On the transfer of the proceedings—
 - (a) a document issued, served, filed or lodged on a date in relation to the proceedings before the transfer is regarded as having been issued, served, filed or lodged, as may be applicable, on that date for the purpose of the proceedings in the Tribunal; and
 - (b) a step taken by a party on a date in relation to the proceedings before the transfer is regarded as having been taken on that date for the purpose of the proceedings in the Tribunal.
- (3) The document referred to in subrule (2) includes the document issued, served, filed or lodged on a date in relation to the proceedings in the CFI before the Tribunal is established.
- (4) On the transfer of the proceedings, any judgment, decision, determination or order made by the CFI in relation to the proceedings before the transfer has effect in the Tribunal as if the judgment, decision, determination or order had been made by the Tribunal on the date on which it was made by the CFI, unless the Tribunal otherwise directs.
- (5) The judgment, decision, determination or order referred to in subrule (4) includes any judgment, decision, determination or order made by the CFI in relation to the proceedings before the Tribunal is established.
- (6) The transfer of the proceedings does not affect—

- (a) any right of appeal to the CFI or the Court of Appeal against—
 - (i) the transfer order itself; or
 - (ii) any judgment, decision, determination or order made by the CFI in the proceedings before the transfer; or
 - (b) the right to enforce in the CFI any judgment, decision, determination or order made by the CFI before the transfer.
- (7) If, before the transfer of the proceedings, an application had been made to the CFI in relation to the proceedings but not yet been determined, the application is regarded as having been made to the Tribunal and to be dealt with by the Tribunal accordingly.
- (8) The application referred to in subrule (7) includes an application made to the CFI before the Tribunal is established.
- (9) If the application referred to in subrule (7) is part-heard in the CFI, the Tribunal may either—
- (a) continue to hear the application as if the earlier proceedings relating to the application had taken place before the Tribunal; or
 - (b) require the application to be heard afresh.
-

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1919

Schedule

[rules 2, 7, 8, 10, 20,
21, 23, 36, 42,
47, 60, 70, 71, 74, 80,
81, 83, 84, 93 & 94]

Forms

Form 1^{note 1}

ORIGINATING NOTICE OF APPLICATION

[rules 2, 7, 74, 83 & 94]

CT^{note 2} _____ of _____

IN THE COMPETITION TRIBUNAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION

Competition Tribunal _____ No. _____ of _____

Between

A.B. Applicant

And

C.D. Respondent

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1921

Originating Notice of Application

1. This application is made under section(s) of the Competition Ordinance^{note 3}.
2. (Name, description and address of the Applicant)
3. (Name, description and address of the Respondent)
4. (State the substance of the application as appropriate)^{note 4}
5. (State the relief(s) sought)^{note 5}
6. (State the grounds on which the relief(s) is/are sought)^{note 6}

Dated this day of 20

.....
Applicant/Solicitors for the
Applicant

Name and address of the solicitors for the Applicant in Hong Kong for service:

To: The Registrar, Competition Tribunal and [name and address of the Respondent]

Competition Tribunal Rules

Schedule

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B1923

Issued from the Registry of the Competition Tribunal this
day of 20

Note: This Notice may not be served later than 6 months beginning with the above date unless its validity is extended by the Competition Tribunal.

Registrar

^{note 1} This form may be used where no form is prescribed for the proceedings, but it must be used for the proceedings under Part 4 of the Competition Tribunal Rules.

^{note 2} Insert the appropriate prefix.

^{note 3} Insert the section(s) under which this application is made (for example, section 63, 92, 94, 97, 99, 104(1), 111(2) or 169 of the Competition Ordinance).

^{note 4} For example—

1. State the complaints and identify the breach with reference to the relevant merger rule or conduct rule if the application is made under section 92, 94, 97 or 99 of the Competition Ordinance.
2. Insert the commitment with reference to the register of the commitment and identify the breach if the application is made under section 63 of that Ordinance.
3. State the circumstances under which sections 102 and 103 of that Ordinance are satisfied if the application is made under section 104(1) of that Ordinance.
4. State why a follow-on action may be brought within the period specified in section 111(1) of that Ordinance.

Competition Tribunal Rules

Schedule

L.N. 109 of 2015

B1925

5. State the circumstances under which sections 168 and 169 of that Ordinance are satisfied if the application is made under section 169 of that Ordinance.

^{note 5} State the relief sought including any order under Schedule 3 or 4 to the Competition Ordinance, costs of the proceedings and order under section 96 of that Ordinance.

^{note 6} The grounds must be supported by an affidavit which verifies the facts relied on if so required by the relevant rules of the Competition Tribunal Rules.

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1927

Form 2

(Form for general inter partes application)

INTER PARTES SUMMONS

[rules 8, 23, 47, 70,
71, 80, 81 & 84]

CT^{note 1} _____ of _____

**IN THE COMPETITION TRIBUNAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION**

Competition Tribunal _____ No. _____ of _____

Between

A.B. Applicant/Plaintiff

And

C.D. Respondent/Defendant

Inter Partes Summons

Let all parties concerned attend before sitting in chambers (open to public/not open to public^{note 2})/in open court^{note 2 and note 3} at the Competition Tribunal at (address of the Competition Tribunal) on day, the day of 20 at a.m./p.m.^{note 2} on the hearing of an application on the part of the for an order that [set out the order sought and the section number of the

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1929

Competition Ordinance and/or the rule number of the Competition Tribunal Rules/the Rules of the High Court under which that order is to be made] and that the costs of the application be [set out the costs order sought].

Dated this day of 20

This summons is taken out by the whose address in Hong Kong for service is

The following are the names and addresses of all persons/solicitors on whom this summons is to be served:

To: The Registrar, Competition Tribunal and [names and addresses of the persons/solicitors]

.....
Solicitors for the Applicant/
Plaintiff/Respondent/Defendant
(or the name of the Applicant/
Plaintiff/Respondent/
Defendant who acts in person)^{note 2}

Time estimate: (mins/hrs/days)

^{note 1} Insert the appropriate prefix.

^{note 2} Delete whichever is inapplicable.

^{note 3} If an application is made under rule 84(1) of the Competition Tribunal Rules, the application will be heard in open court.

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1931

Form 3

APPLICATION FOR LEAVE TO INTERVENE IN PROCEEDINGS

[rules 20 & 21]

CT^{note 1} _____ of _____

IN THE COMPETITION TRIBUNAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION

Competition Tribunal _____ No. ____ of _____

Between

A.B. Applicant

And

C.D. Respondent

Application for Leave to Intervene in Proceedings

To: The Registrar, Competition Tribunal

The intended intervener applies for leave to intervene in the above specified proceedings before the Competition Tribunal.

1. Name of the intended intervener: Competition Commission/.....

Competition Tribunal Rules

Schedule

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B1933

2. Matters in issue affecting the intended intervener:
3. Reasons for making the application: [include any exceptional circumstances for extending time for making the application]
4. Particulars of the relief sought by the intended intervener:
5. The intended intervener's address in Hong Kong for service:

Dated this day of 20

The following are the names and addresses of all persons/solicitors on whom this application is to be served:

.....
Intended Intervener/
Solicitors for the Intended Intervener

^{note 1} Insert the appropriate prefix.

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1935

Form 4

APPLICATION FOR SUMMONS TO A WITNESS

[rule 36]

CT^{note 1} _____ of _____

IN THE COMPETITION TRIBUNAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION

Competition Tribunal _____ No. ____ of _____

Between

A.B. Applicant/Plaintiff

And

C.D. Respondent/Defendant

Application for Summons to a Witness

To: The Registrar, Competition Tribunal

Whereas of
..... is likely to give material evidence on behalf of the
(Applicant/Plaintiff/Respondent/Defendant, etc.), I apply
for a summons to be issued to requiring

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1937

him/her to appear at a sitting of the Competition Tribunal at (address of the Competition Tribunal) on day, the day of 20 at a.m./p.m.^{note 2} to give evidence on behalf of the (Applicant/Plaintiff/Respondent/Defendant, etc.) (and also to bring with him/her and produce [state particulars of the documents required]).

Dated this day of 20

.....
Solicitors for the Applicant/
Plaintiff/Respondent/Defendant
(or the name of the Applicant/
Plaintiff/Respondent/
Defendant who acts in person)^{note 2}

Note: The Applicant for a summons to a witness is required to pay \$500 as deposit under rule 36 of the Competition Tribunal Rules.

^{note 1} Insert the appropriate prefix.

^{note 2} Delete whichever is inapplicable.

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1939

Form 5

SUMMONS TO A WITNESS TO APPEAR
(AND TO PRODUCE DOCUMENTS)

[rule 36]

CT^{note 1} _____ of _____

IN THE COMPETITION TRIBUNAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION

Competition Tribunal _____ No. ____ of _____

Between

A.B. Applicant/Plaintiff

And

C.D. Respondent/Defendant

Summons to a Witness to Appear (and to Produce Documents)

To: [Name, address and occupation of the witness]

You are summoned to attend at a sitting of the Competition Tribunal to be held at (address of the Competition Tribunal) on day, the day of 20 at a.m./p.m.^{note 2} to give evidence in the above proceedings (and also to bring with you and produce [state particulars of the documents required]).

Competition Tribunal Rules

Schedule

L.N. 109 of 2015

B1941

This summons was issued on behalf of the
(Applicant/Plaintiff/Respondent/Defendant, etc.)

Dated this day of 20

.....
Presiding Member, Competition Tribunal

note 1 Insert the appropriate prefix.

note 2 Delete whichever is inapplicable.

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1943

Form 6

NOTICE OF APPEAL AGAINST DECISIONS OF REGISTRAR
OF COMPETITION TRIBUNAL

[rule 42]

CT^{note 1} _____ of _____

IN THE COMPETITION TRIBUNAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION

Competition Tribunal _____ No. ____ of _____

Between

A.B. Applicant/Plaintiff

And

C.D. Respondent/Defendant

Notice of Appeal against Decisions of Registrar of Competition
Tribunal

Take notice that the above named intends to
appeal against the decision of the Registrar of the Competition
Tribunal given on , ordering
that

Competition Tribunal Rules

Schedule

L.N. 109 of 2015

B1945

And further take notice that you are required to attend before the Honourable Mr. Justice/Madam Justice , Presiding Member, sitting in chambers (open to public/not open to public^{note 2}) at the Competition Tribunal at (address of the Competition Tribunal) on day, the day of 20 at a.m./p.m.^{note 2} on the hearing of an application on the part of for an order to be made that^{note 3}—

And further take notice that it is the intention of the to attend by counsel [delete if not to be attended by counsel].

Dated this day of 20

Registrar

This appeal is brought by the whose address in Hong Kong for service is

The following are the names and addresses of all persons/solicitors on whom this Notice is to be served:

To: The Registrar, Competition Tribunal and [names and addresses of the persons/solicitors]

Competition Tribunal Rules

Schedule

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B1947

.....

Solicitors for the Applicant/
Plaintiff/Respondent/Defendant
(or the name of the Applicant/
Plaintiff/Respondent/
Defendant who acts in person)^{note 2}

Time estimate: (mins/hrs/days)

note 1 Insert the appropriate prefix.

note 2 Delete whichever is inapplicable.

note 3 State the object of the application.

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1949

Form 7

NOTICE OF APPLICATION FOR LEAVE TO REVIEW A
REVIEWABLE DETERMINATION

[rules 2 & 60]

CT^{note 1} _____ of _____

IN THE COMPETITION TRIBUNAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION

Competition Tribunal _____ No. ____ of _____

Notice of Application for Leave to Apply for a Review of a Reviewable
Determination

To: The Registrar, Competition Tribunal

The Applicant applies for leave to make an application for a review of a reviewable determination of the Competition Commission/ Communications Authority^{note 2} [and for an extension of time under section 88(2) of the Competition Ordinance]^{note 3}.

Name, description and address of the Applicant ^{note 4} :	
The capacity of the Applicant in making this application ^{note 5} :	

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1951

Name, description and address of the Respondent:	
Determination in respect of which review is sought:	
Indicate the applicable paragraph number and the type of decision specified in the definition of <i>reviewable determination</i> in section 83 of the Competition Ordinance ^{note 6} :	
Relief sought [state briefly but clearly the terms in respect of which relief(s) is/are sought]:	
Name, description and address of all interested parties (if any) known to the Applicant:	
Name and address of the solicitors for the Applicant:	

Competition Tribunal Rules

Schedule

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B1953

Signed	Dated
--------	-------

Grounds on which the relief(s) is/are sought^{note 7}:

(If an extension of time is sought under section 88(2) of the Competition Ordinance, set out the grounds here).

To: The Registrar, Competition Tribunal and [names and addresses of the persons/solicitors]

.....
Applicant/Solicitors for the
Applicant

note 1 Insert the appropriate prefix.

note 2 You may select the Communications Authority if it performs the functions of the Competition Commission under section 159 of the Competition Ordinance.

note 3 Delete if not applicable.

note 4 Insert the address of the Applicant in Hong Kong for service.

note 5 Specify the capacity according to section 85(1) or (2) of the Competition Ordinance.

note 6 For example: paragraph (a) of the definition of *reviewable determination* in section 83 of the Competition Ordinance—a decision regarding an agreement, made by the Competition Commission under section 11 of the Competition Ordinance.

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1955

^{note 7} The grounds must be supported by an affidavit which verifies the facts relied on.

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1957

Form 8

(Form for an action under Part 5 of the Competition Tribunal Rules)

ORIGINATING NOTICE OF CLAIM

[rules 2 & 93]

CT^{note 1} _____ of _____

**IN THE COMPETITION TRIBUNAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION**

Competition Tribunal _____ No. _____ of _____

Between

A.B. Plaintiff

And

C.D. Defendant

Originating Notice of Claim

1. (Name, description and address of the Plaintiff)
2. (Name, description and address of the Defendant)

Competition Tribunal Rules

Schedule

L.N. 109 of 2015
B1959

3. (State the date and decision of the Competition Tribunal/Court of First Instance/Court of Appeal/Court of Final Appeal or the admission in a commitment and the date of acceptance by the Competition Commission on which the Plaintiff relies to establish a contravention of a conduct rule)^{note 2}
4. (State how the relevant period as specified in section 111(1) of the Competition Ordinance has been satisfied)
5. (Specify the leave granted to commence the follow-on action under section 111(2) of the Competition Ordinance, if applicable)
6. (Identify the relevant findings in the decision/admission on the basis of which the claim for damages is made)^{note 3}
7. (State concisely the nature of claim and the relief sought)^{note 4}
8. (Statement of claim/see statement of claim filed separately under rule 93(3) of the Competition Tribunal Rules^{note 5})^{note 6 and note 7}

Dated this day of 20

.....
Plaintiff/Solicitors for the
Plaintiff

Competition Tribunal Rules

Schedule

L.N. 109 of 2015

B1961

Name and address of the solicitors for the Plaintiff in Hong Kong for service:

To: The Registrar, Competition Tribunal and [name and address of the Defendant]

Issued from the Registry of the Competition Tribunal this day of 20

- Note:**
1. This Notice may not be served later than 6 months beginning with the above date unless its validity is extended by the Competition Tribunal.
 2. The statement of claim must be verified by a statement of truth in accordance with Order 41A of the Rules of the High Court (Cap. 4 sub. leg. A).

Registrar

^{note 1} Insert the appropriate prefix.

^{note 2} See section 110(3) of the Competition Ordinance. If there is any appeal against the decision relied on, state the references and the result of the appeal.

^{note 3} See section 110(3) of the Competition Ordinance.

^{note 4} State the relief sought (see section 112 of, and Schedule 3 to, the Competition Ordinance) including costs of the proceedings and the amount of damages sought, if applicable. It is not necessary to complete item 7 if the statement of claim is indorsed under item 8.

^{note 5} Delete whichever is inapplicable.

Competition Tribunal Rules

Schedule

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B1963

^{note 6} The Plaintiff may indorse this Notice with the statement of claim that sets out the material facts, nature of claim and relief sought (see section 112 of, and Schedule 3 to, the Competition Ordinance) including costs of the proceedings and the amount of damages sought, if applicable.

^{note 7} However, if the Plaintiff wishes to maintain the confidentiality of any information contained in the statement of claim, the Plaintiff may file the statement of claim and this Notice separately under rule 93(3) of the Competition Tribunal Rules. Otherwise, the Plaintiff may apply for confidential treatment of the information under rule 37 of those Rules.

A person may inspect and obtain a copy of this Notice, or with the leave of the Tribunal, inspect the statement of claim and obtain a copy of the statement, under rule 55 or 56 of the Competition Tribunal Rules.

Andrew CHEUNG
Chief Judge

26 May 2015

Explanatory Note

These Rules prescribe the practice and procedure to be followed in the Competition Tribunal (*Tribunal*) in all matters with respect to which the Tribunal has jurisdiction and any matters incidental or relating to that practice or procedure. Unless the Competition Ordinance (Cap. 619) (*Ordinance*) or these Rules provide otherwise, the Rules of the High Court (Cap. 4 sub. leg. A) (*RHC*) apply in respect of proceedings before the Tribunal. This is provided for under section 144 of the Ordinance.

2. There are 6 Parts and 1 Schedule in these Rules.
3. Part 1 contains the definitions used in these Rules. It also sets out the application of these Rules and the application of the RHC to proceedings before the Tribunal (*proceedings*).
4. Part 2 sets out the practice and procedure applicable to all proceedings. This Part contains 10 Divisions—
 - (a) Division 1 specifies the commencement of the proceedings and interlocutory application in the Tribunal. It also covers the use of specified forms.
 - (b) Division 2 provides for the service of documents, including substituted service and service out of the jurisdiction.
 - (c) Division 3 provides for the application for intervention by a person having a sufficient interest in the proceedings. It also covers addition of parties to the proceedings.
 - (d) Division 4 provides for the discovery and inspection of documents in the proceedings.

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- (e) Division 5 provides for case management and interrogatories.
 - (f) Division 6 prescribes the procedures in the Tribunal hearings, including the disposal of the proceedings and applications, the taking of evidence and confidential treatment of information.
 - (g) Division 7 sets out the jurisdiction and duties of the Registrar of the Tribunal.
 - (h) Division 8 provides for the procedures for appeal to the Tribunal and the Court of Appeal.
 - (i) Division 9 applies to the transfer of proceedings from the Tribunal to the Court of First Instance under section 114 of the Ordinance.
 - (j) Division 10 sets out the supplementary provisions including the sittings of the Tribunal and its power to extend or abridge time under these Rules. It also covers the use of language in the Tribunal.
5. Part 3 provides for the procedures for the review of the Competition Commission's reviewable determination for the purpose of section 84 of the Ordinance. A reference to determination includes a determination made by the Communications Authority if the Authority performs the functions of the Commission under section 159 of the Ordinance. The procedures include the mode of application for leave and the application for the review itself.
6. Part 4 covers the application procedures for enforcement before the Tribunal in cases where there are breaches of the competition rules, including the application procedures for disqualification orders. This Part also applies to the Competition Commission's application for enforcement of commitments under section 63 of the Ordinance.

Competition Tribunal Rules

Explanatory Note
Paragraph 7

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7. Part 5 covers the procedures for making a claim in a follow-on action to which section 110 of the Ordinance applies.
8. Part 6 is applicable to the proceedings transferred from the Court of First Instance to the Tribunal under section 113 of the Ordinance.
9. The Schedule specifies the forms to be used for an application under the Ordinance or these Rules.