

CJRS 1/2008

**Subcommittee on Draft Subsidiary Legislation  
Relating to the Civil Justice Reform**

**Proposed Amendments to the  
Rules of the High Court (Cap. 4A)**

**Purpose**

This paper introduces the amendments proposed by the Steering Committee on Civil Justice Reform ("the Steering Committee") to the Rules of the High Court ("RHC") (Cap. 4A) for the implementation of the recommendations in the Final Report of the Civil Justice Reform ("CJR") and other related recommendations proposed by of the Steering Committee.

**Background**

***Final Report of the Working Party on CJR***

2. In February 2000, the Chief Justice appointed the Working Party on CJR ("the Working Party") to review the rules and procedure of the High Court ("HC") in civil proceedings and to recommend changes thereto, with a view to ensuring and improving access to justice at reasonable cost and speed. The Working Party submitted its recommendations to the Chief Justice in its Final Report in March 2004, making a total of 150 recommendations.

3. The objective of the CJR is to -

- (a) Preserve the best features of the adversarial system but curtailing its excesses. One of the primary ways to achieve this is by giving even greater case management powers to the courts. This would prevent tactical manipulation of the rules to delay proceedings and also ensure that court and judicial resources are fairly distributed;
- (b) Streamline and improve the civil procedures; and

- (c) Facilitate early settlement by parties, cut out unnecessary applications and, if necessary, penalise such applications.

In consequence, civil proceedings would become more efficient, expeditious and promote a sense of reasonable proportion and economy. The intention is to reduce, delay and eliminate unnecessary expenses in litigation. There would also be greater equality between parties to proceedings and settlements would be both encouraged and facilitated. As far as the administration of the court is concerned, its resources would be more fairly distributed and utilised.

#### *Steering Committee on CJR*

4. In March 2004, the Chief Justice accepted the Working Party's Final Report and set up the Steering Committee to oversee the implementation of the recommendations therein relating to the Judiciary. The Chief Justice subsequently decided that the proposed changes should be implemented not just in the HC, but also in the District Court ("DC") and the Lands Tribunal ("LT") where such changes are appropriate. Accordingly, the terms of reference of the Steering Committee were expanded in September 2006 to oversee the application of the recommendations in the Final Report to the DC and LT.

#### *Proposed Amendments to Subsidiary Legislation under CJR*

5. The Steering Committee has identified that, of the 150 recommendations in the Final Report, 81 require amendments to subsidiary legislation. Three main sets of subsidiary legislation are involved -

- (a) RHC;
- (b) Rules of the District Court ("RDC") (Cap. 336H); and
- (c) Lands Tribunal Rules ("LTR") (Cap. 17A).

6. As the Steering Committee has focused its work mainly on the proposed amendments to the RHC, this set of Amendment Rules is near its final form and is submitted with this paper for the Subcommittee's consideration.

7. As regards the proposed amendments to RDC, they would mostly follow those in the RHC, unless there are special considerations

justifying differences between the two sets of Rules. It is proposed that, after the Subcommittee's deliberation on the draft RHC, a comparison table on the RDC and those amendments which differ from the RHC be submitted to the Subcommittee for consideration.

8. As regards the draft LTR, pursuant to the new section 10(1) of the Lands Tribunal Ordinance ("LTO") (Cap. 17) under the newly enacted Civil Justice (Miscellaneous Amendments) Ordinance 2008 (hereafter referred to as the "CJO"), the LT has a general power to adopt the practice and procedure of the Court of First Instance ("CFI") in the exercise of its civil jurisdiction. With such wide powers therefore to adopt the practice and procedure of the CFI, any changes under CJR can likewise be utilized as the LT thinks fit. However, amendments would be introduced to the LTR in relation to its case management powers and the newly introduced leave requirement for appeals from the LT to the Court of Appeal. These amendments would be modelled on the similar provisions in the RHC and RDC, where appropriate.

9. Following the amendments to the RHC, consequential amendments would be introduced to four sets of subsidiary legislation, namely, (i) the High Court Fees Rules ("HCFR") (Cap. 4D), (ii) the District Court Civil Procedure (Fees) Rules (Cap. 336C); (iii) the High Court Suitors' Funds Rules (Cap. 4B), and (iv) the District Court Suitors' Funds Rules (Cap. 336E).

#### **Draft Rules of the High Court (Amendment) Rules 2008**

10. The following Annexes are attached –

- (a) **Annex A** – a summary table setting out the 81 recommendations in the Final Report, the Orders in the RHC affected, and the relevant Rules in the Draft RHC; Annex A
- (b) **Annex B** – the Draft Rules of the High Court (Amendment) Rules 2008 ("Draft RHC"); and Annex B
- (c) **Annex C** - the marked-up version of the relevant Orders in the RHC affected by the amendments in the Draft RHC. Annex C

11. Whilst the proposed amendments relate primarily to the recommendations in the Final Report, they have also taken into account

developments and various other matters deliberated on by the Steering Committee since the publication of the Final Report, and having regard to the comments received in the two rounds of consultation conducted by the Steering Committee in April 2006 and October 2007. The key features of the proposed amendments are highlighted below.

**Part 2 – Objectives and Case Management Powers**  
**(Recommendations 2 - 4, 81 and 82)**  
**New Orders 1A and 1B**

12. It is proposed under the new Order 1A that courts would exercise their powers with regard to the underlying objectives to -

- (a) Increase the cost-effectiveness of any practice and procedure to be followed in relation to proceedings before the Court;
- (b) Ensure that a case is dealt with as expeditiously as is reasonably practicable;
- (c) Promote a sense of reasonable proportion and procedural economy in the conduct of proceedings;
- (d) Promote greater equality between the parties;
- (e) Facilitate settlement of disputes; and
- (f) Ensure that the resources of the Court are distributed fairly.

13. It is proposed under the new Order 1B that courts have such case management powers as-

- (a) Identifying the issues at an early stage;
- (b) Fixing timetables and controlling the progress of the case; and
- (c) Giving directions to ensure that the trial of a case proceeds quickly and efficiently.

**Part 3 – Pre-action Protocols and Costs-only Proceedings**

**(Recommendations 7 - 9 and 84)**

**Orders 1, 2, 10, 11, 62 and Appendix A**

14. Under the proposed new Order 2, rules 3 to 5, it is proposed that the Court be empowered to –

- (a) Take into account a party's non-compliance with any applicable pre-action protocol in exercising its powers under the RHC;
- (b) Order a party to pay a sum of money into court if a party fails to comply with a rule, practice direction or pre-action protocol; and
- (c) Make "self-executing" orders, i.e. prescribing an appropriate sanction which automatically applies for non-compliance without the need to apply to the court for enforcement.

15. The proposed amendments to Order 62, rule 5 empower the Court to take into account the conduct (including the extent to which the parties followed any relevant pre-action protocol) of all the parties in exercising its discretion as to costs.

16. The proposed amendments to Order 11, rule 1(1) and Order 62, rules 11A and 12(1) are related to the procedure for commencing costs-only proceedings under the new section 52B(2) of the HCO in the CJO, and empower a master to tax the costs that are the subject matter of costs-only proceedings.

**Part 4 – Commencement of Proceedings**

**(Recommendations 11 - 16)**

**Orders 1, 2, 5, 7, 8, 9, 14A, 16, 17, 19, 20, 21, 27, 28, 29, 30, 35, 46, 50, 52, 53, 54, 67, 73, 75, 76, 77, 80, 83A, 88, 89, 90, 100, 102, 103, 115, 115A, 117, 118, 119, 121 and Appendix A**

17. It is proposed that amendments be made to the various Orders so that the present system, with four different modes of commencement of proceedings (i.e. writs, originating summonses, originating motions and petitions) be simplified, so that after the amendments, with very few exceptions (for example, winding up and bankruptcy proceedings) where petitions will continue to be used, writs and originating summons will-

become the only means of commencing proceedings, with the RHC indicating that (i) a writ is appropriate where a substantial factual dispute is likely; and (ii) an originating summons is appropriate where questions of law involving no or little factual investigation are to be placed before the court.

**Part 5 – Dispute as to Jurisdiction**

**(Recommendation 17)**

**Orders 12, 18 and Appendix A**

18. Amendments are proposed to Order 12, rule 8 to bring into its scheme for disputing the court's jurisdiction, applications for the court to decline to exercise jurisdiction over the plaintiff's claim and to grant a discretionary stay of the action. Amendments to Order 18 and Appendix A provide for transitional and consequential matters.

**Part 6 – Default Judgments and Admissions**

**(Recommendation 18)**

**Order 6, New Order 13A and Appendix A**

19. It is proposed that a new procedure for making admissions to money claims (both liquidated and unliquidated) be introduced by adding a new Order 13A. This is intended to facilitate settlements and save court time and costs by enabling payment terms (as to, say, time and instalments) to be proposed by a defendant who admits a claim. Under the proposed new Order 13A –

- (a) The defendant may admit the whole or part of a liquidated claim or in the case of an unliquidated claim, put forward a sum in respect of which he is willing to submit to judgment;
- (b) If the whole claim is admitted or if the plaintiff decides to accept judgment for part of his claim, the defendant may seek time to pay, either by a certain date or by instalments at a specified rate of payment;
- (c) If the plaintiff is satisfied with the admission but not with the defendant's payment proposals, he can refer those proposals for determination by the Court;

**Part 7 – Pleadings**

**(Division 1 - Recommendations 22-24)**

**Order 18**

20. Amendments are proposed to Order 18, rules 13 and 14 to (i) require defences be pleaded substantively, (ii) provide that a defendant who has adequately set out the nature of his case in relation to which the untraversed allegation is relevant, is deemed not to admit and to put the plaintiff to proof of such allegation, and (iii) provide that a joinder of issue operates as a non-admission instead of a denial.

**(Division 2 - Recommendations 26-32 and 35)**

**Orders 18, 20, 38 and New Order 41A**

21. Amendments are proposed to Order 18 to –

- (a) Extend the period allowed for (i) a defendant to serve his defence and (ii) a plaintiff to serve his reply to defence or his defence to counterclaim from 14 days to 28 days;
- (b) The pleadings in an action are deemed to be closed at the expiration of 28 days instead of 14 days after service of the defence if neither a reply nor a defence to counterclaim is served;
- (c) Provide that a party may make alternative and inconsistent allegations in his pleading if he has reasonable grounds for doing so; and
- (d) Require a pleading and the particulars of a pleading to be verified by a statement of truth.

22. Amendments are also proposed to Order 20 to require that an amendment to a pleading or to the particulars of a pleading must be verified by a statement of truth. Corresponding amendments are proposed to Order 38 to require that witness statements and expert reports to be verified by a statement of truth.

23. A new Order 41A is proposed to introduce a requirement that certain documents be verified by a statement of truth. It also identifies the persons by whom a statement of truth is to be signed, sets out the effect of a statement of truth and the consequences of a failure to verify a document for which verification by a statement of truth is required.

**(Division 3 - Recommendations 33 and 34)  
Orders 18 and 20**

24. Orders 18 and 20 are amended to specify that the Court shall not order a party to particularise or amend his pleadings, unless it is of the opinion that the order is necessary for disposing fairly of the matter or for saving costs.

**Part 8: Sanctioned Offers and Payments**

**(Division 1 - Recommendations 38 - 43)**

**Orders 1, 22, 29, 34, 59, 62, 75, 80, 82, 92, New Orders 22 and 22A and Appendix A**

25. A new Order 22 is proposed to introduce a system of sanctioned offers and payments so that, effectively, offers to settle any type of dispute (not just money ones) may be made, thereby bringing the whole action or a part of it, to an end. The proposals substantially alter the existing system of payments into court and would considerably widen the ambit of offers to settle cases. For example, under the existing rules, only a defendant may offer to settle a claim by a payment into court, thereby putting the plaintiff somehow at a higher risk as to costs. Under the proposed system, a plaintiff, by making an offer to the defendant, can put the defendant at much the same risk as the defendant may put to the plaintiff. If an offer is not beaten when judgment is obtained, the offeree has to bear enhanced interest and costs.

26. A new Order 22A is also proposed to set out miscellaneous provisions about payment into court. A majority of these provisions are at present contained in the existing Order 22.

**New Order 62A and Appendix A  
(Division 2 - Recommendation 132)**

27. A new Order 62A is proposed to enable offers and payments similar to those contained in the new Order 22 to be made in the context of the taxation of costs.



**Part 9 – Interim Remedies and Mareva Injunctions in aid of Proceedings outside Hong Kong**

**(Recommendation 49)**

**Orders 11, 29, 30 and 73**

28. Order 11 is amended to allow service out of the jurisdiction of an application for interim relief or appointment of a receiver. Amendments are proposed to Orders 29 and 30 to respectively (i) set out the procedure for applying for interim relief in aid of proceedings outside Hong Kong, and (ii) provide that the procedure for applying for appointment of a receiver in an action or proceeding in the High Court applies, with certain modifications, to an application for appointment of a receiver in aid of proceedings outside Hong Kong.

29. Order 73 is amended to set out the procedure for applying for interim injunction or any other interim measure in aid of arbitration proceedings outside Hong Kong, and to allow for service out of the jurisdiction of such applications.

**Part 10 - Case Management Timetabling and Milestones**

**(Division 1 - Recommendations 52 - 60 and 62)**

**Orders 14, 18, 24, 25, 28, 29, 33, 34, 37, 38, 72, 75, 78, 86, 102, 103, 115, 115A and 117**

30. Order 25 is amended so that court-determined timetables can be set at an early stage of proceedings, taking into account the needs of the particular case and the reasonable requests of the parties, who are required to fill in a questionnaire and to propose directions and a timetable. There will be firm milestone dates for the major steps, i.e. case management conferences, pre-trial reviews and the trial or trial period to be set by the Court. Only in the most exceptional circumstances would a milestone date be changed.

31. As it would be confusing to have in existence both a summons for directions and a case management summons, it is therefore proposed that there be only one procedural summons - the case management summons. The term "summons for directions" in Order 25 and other orders are substituted by "case management summons".

**Part 11 – Vexatious Litigants**

**(Recommendation 69)**

**Orders 18, 32, New Order 32A and Appendix A**

32. Amendments are proposed to Order 32, rule 11(1) so that an application under section 27 of the HCO for leave to institute or continue legal proceedings may not be heard by the Registrar of the High Court or any master. A new Order 32A is added to set out the procedure relating to the making of a vexatious litigant order. A new form is added to Appendix A for making a relevant application

**Part 12 – Discovery**

**(Divisions 1 and 2 - Recommendations 76, 79 and 80)**

**Order 24**

33. Order 24 is amended to –
- (a) Widen its scope of application for pre-action discovery under section 41 of the HCO to cases other than personal injuries or death claims. The affidavit in support of the application must show that the documents sought to be disclosed are directly relevant to the claim;
  - (b) Provide that no order for disclosure of documents is to be made under section 41 or 42 of the HCO, unless the Court is of the opinion that the order is necessary for disposing fairly of the cause or matter or for saving costs; and
  - (c) Empower the Court to limit the discovery of documents or to direct that the discovery of documents should be made in the manner specified by the Court.

**Part 13 – Interlocutory Applications**

**(Recommendations 83, 85 and 86)**

**Order 32**

34. Order 32 is amended to –
- (a) Allow interlocutory applications (other than applications specified in the rule) to be dealt with by a master without a hearing;

- (b) Provide for the Court's power to specify the consequences of failing to comply with a court order on an interlocutory application; and
- (c) Provide that the Registrar and any master of the High Court may deal with matters relating to the conditions of admission to bail.

**Part 14 - Interlocutory Applications and Summary Assessment of Costs**

(Recommendations 88, 89 and 92)

**Order 62**

35. Order 62 is amended to introduce summary assessment of costs. It is aimed at discouraging unwarranted interlocutory applications. The proposed changes are also intended to dispense with the present elaborate and lengthy taxation procedures, thereby saving time and costs. Specifically, the amendments –

- (a) Empower the Court, when disposing of an interlocutory application, to make a summary assessment of costs or a provisional summary assessment, or to order a taxation at the end of the action;
- (b) Regulate time for compliance with an order for summary assessment of costs; and
- (c) Deal with the question of when to tax and pay costs.

**Part 15 – Wasted Costs**

**Order 62**

(Recommendations 94 – 97)

36. Order 62 is amended by adding new rules 8, 8A, 8B, 8C and 8D, to -

- (a) Set out the circumstances under which the Court may make a wasted costs order;

- (b) Specify that the Court may make a wasted costs order on its own motion;
- (c) Require the Court to consider the question of whether to make a wasted costs order by a 2-stage procedure specified in the rule; and
- (d) Provide that a party shall not threaten another party or any of that party's legal representatives with an application for a wasted costs order, and a party shall not indicate to the other party or any of that party's legal representatives that he intends to apply for such an order, unless he is able to particularize the misconduct concerned and to identify the evidence.

**Part 16 – Witness Statements and Evidence**  
**(Recommendation 100)**  
**Order 38**

37. Order 38 is amended to allow a witness greater flexibility to amplify or supplement his witness statement.

**Part 17 – Expert Evidence**  
**(Recommendations 102, 103 and 107)**  
**Order 38 and New Appendix D**

38. Order 38 is amended to -

- (a) Empower the Court to order the parties to appoint a single joint expert;
- (b) Declare that an expert witness's duty to assist the Court overrides his duty to his client or the person paying his fees;
- (c) Provide that a party who instructs an expert witness shall provide the expert witness with a copy of the code of conduct set out in the new Appendix D; and
- (d) Require an expert witness to make a specified declaration before his expert report or evidence will be admitted in evidence.

**Part 18 - Case Managing Trials**

**(Recommendation 108)**

**Order 35**

39. Order 35 is amended to set out the Court's powers of case management in relation to trials.

**Part 19 – Leave to Appeal**

**(Division 1 - Recommendation 109)**

**Order 58**

40. Order 58 is amended to make it clear that the entitlement to appeal to a judge from a master's decision applies irrespective of whether the decision is made on paper or after a hearing; and to provide that the introduction of fresh evidence on the appeal is not allowed except on special grounds.

**(Division 2 - Recommendations 110 and 112)**

**Order 59**

41. Order 59 is amended to –

- (a) Set out the judgments and orders of the Court from which an appeal lies as of right despite their interlocutory nature;
- (b) Prescribe the procedure for applying for leave to appeal; and
- (c) Provide for consequential amendments.

**Part 20 – Appeals**

**(Division 1 - Recommendation 120)**

**Order 59**

42. Order 59 is amended to provide that the Court of Appeal may determine an interlocutory application on paper and may direct that the application be heard before a bench of 2 or 3 judges constituting the Court of Appeal. For the avoidance of doubt, it also provides that interlocutory applications before the Court of Appeal may continue to be dealt with by one Justice of Appeal.

**(Division 2 - Miscellaneous Amendments to Appeal Procedures)  
Steering Committee's Recommendations  
Orders 58, 59, 61A and 61**

43. This Division implements the Steering Committee's recommendations to standardise the provisions for leave to appeal to the Court of Appeal, irrespective of the type of proceedings or the level of court –

- (a) There should no longer be ex parte applications for leave to appeal, as these are potentially time wasting and costly. Instead, all applications for leave should be inter partes (unless of course the relevant hearing below was ex parte);
- (b) Where the Court of Appeal makes a determination on paper, an aggrieved party may request that the court reconsider the matter at an oral hearing, but the Court of Appeal may refuse to do so where it is of the view that the application is without merit;
- (c) Where a single judge of the Court of Appeal makes a determination on an application for leave to appeal, an aggrieved party may make a fresh application within 7 days to the Court of Appeal;
- (d) In granting leave to appeal, the Court of Appeal may give such directions or impose such conditions as it deems fit;
- (e) The time within which applications for leave to appeal must be made starts to run from the date of the order or decision appealed against and not (as now) from the date of perfection of the order;
- (f) The time for appealing (in cases where leave is not required) will be calculated from the date the relevant judgment, order or decision is made and not (as now) from the date of perfection of the order;
- (g) Any party affected by an ex parte order of the Court of Appeal may apply to set it aside within 7 days of service; and

- (h) For the avoidance of doubt, it is provided that a judge of the Court of First Instance may sit as a judge of the Court of Appeal.

**Part 21 – General Approach to Inter-party Costs**  
**(Recommendation 122)**  
**Order 62**

44. In this Part, the following changes regarding inter-party costs are introduced –

- (a) In relation to interlocutory applications, the principle that the costs should normally follow the event is no longer the prescribed usual order but just an option; and
- (b) The Court shall take into account the underlying objectives of the RHC in exercising its discretion as to costs.

**Part 22 – Taxing the Other Side’s Costs**  
**(Division 1 - Recommendation 131)**  
**First Schedule to Order 62**

45. Order 62 is amended to provide that counsel’s fees are in the discretion of the taxing master. At present, counsel’s fees are allowed in full on taxation, unless the taxing master is satisfied that the amount is excessive and unreasonable.

**(Division 2 - Recommendation 134)**  
**Order 62**

46. The major changes introduced by the amendments in this Division include the following -

- (a) Chief Judicial Clerks are empowered to conduct a provisional taxation if the amount of the bill of costs does not exceed \$200,000 (currently, the limit is \$100,000);
- (b) A new procedure to enable a taxing master to conduct a provisional taxation on paper (new rule 21B of Order 62) is introduced. Any party dissatisfied with the award is entitled

to require an oral taxation hearing (new rule 21C of Order 62);  
and

- (c) A party shall pay the prescribed taxing fee if he withdraws his bill of costs within 7 days after his application for setting down the taxation. At present, the relevant fee is payable if the bill of costs is withdrawn less than 7 days before the appointment for taxation.

**(Division 3 - Recommendations 135 and 136)**  
**Order 62**

47. Under this Division, Order 62 is amended to –

- (a) Empower a taxing master to give certain directions relating to the taxation of a bill of costs;
- (b) Provide that if taxation proceedings are adjourned because a party has failed to comply with any directions given by a taxing master, he may make such order as to costs thrown away by the adjournment;
- (c) Provide that a party entitled to payment of costs to be taxed is also entitled to his costs of the taxation except where the Court orders otherwise or any enactment or relevant practice direction provides otherwise; and
- (d) Empower the Court to disallow all or part of the costs being summarily assessed or taxed, and to order a party to pay costs that he has caused any other party to incur.

**(Division 4 - Miscellaneous amendments to Taxation Procedures)**  
**Order 62**

48. Under this Division, Order 62 is amended to introduce the following major changes –

- (a) The person entitled to payment of costs is allowed more time for discussing settlement of costs and for commencing taxation proceedings;
- (b) A taxing master may disallow any part of the taxed costs, disallow interest on taxed costs or reduce the period for which



such interest is payable or the rate at which such interest is payable to penalise delay;

- (c) A party is not entitled to commence taxation proceedings after a specified period;
- (d) A taxing master is required to issue a final certificate for costs at the conclusion of taxation proceedings before him;
- (e) A taxing master is enabled to set aside or vary his decision against a party in certain specified circumstances;
- (f) Taxing fees may be reimbursed upon issue of a final certificate by a taxing master;
- (g) It is made clear that a party may not apply to a judge for an order to review a taxing master's decision until after its review by the taxing master;
- (h) A taxing master is empowered to dismiss an application for review if the applicant has failed to comply with directions;
- (i) The scales of costs set out in the Schedules are revised; and
- (j) It is made clear that no costs are to be allowed in respect of 2 or more counsel's appearance before a judge in open court or a master in open court unless the judge or master has certified the attendance as proper.

**Part 23 – Judicial Review**  
**(Recommendations 144 to 148)**  
**Order 53 and Appendix A**

49. The major provisions in this Part include the following –
- (a) Order 53, rules 1A and 1, defining more clearly the scope of judicial review proceedings;
  - (b) New rules 2A to 2D, setting out the procedure for applying for leave to apply for judicial review;

- (c) Order 53, rule 3, making further provisions for dealing with an application for leave;
- (d) New rule 3A, providing that neither a respondent nor a person served with an application for leave may apply to set aside an order granting leave to make the application for judicial review;
- (e) New rule 4A, providing for service of an order granting leave to apply for judicial review and of any associated directions given by the Court;
- (f) New rules 5A to 5D, providing for the filing and service of grounds for contesting or supporting an application for judicial review; prohibiting an applicant for judicial review to rely on additional grounds unless leave of the Court has been granted; providing that at the hearing of the application for judicial review, no affidavit evidence may be relied on unless it has been properly served or the Court grants leave; and allowing any person to apply for leave to file evidence or make representations at a judicial review hearing; and
- (g) Order 53, rule 9(1), providing that a person who desires to be heard in support of an application for judicial review shall also be heard if the person appears to the Court to be a proper person to be heard.

**Part 24 – Costs against Non-party**  
**(Steering Committee's recommendation)**  
**Orders 11 and 62**

50. Order 11, rule 1(1) is amended to enable service outside Hong Kong of an originating process by which a cost order against a person who is not a party to the relevant proceedings is sought.

51. A new rule 6A is added to Order 62 to provide that if the Court is considering whether to make a costs order in favour of or against a person who is not a party to the relevant proceedings, that person must be joined as a party and must be given a reasonable opportunity to attend a hearing.

**Part 25 – Miscellaneous**  
**Orders 1, 25, 37, 38, 42, 71, 75 and 78**

52. Part 25 contains technical and minor amendments to several Orders of the RHC.

**Proposed Legislative Timetable**

53. The legislative timetable is proposed as follows –

Subcommittee to examine draft subsidiary legislation	February - April 2008
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Gazettal of subsidiary legislation for negative vetting	16 May 2008
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Expiry of negative vetting period	18 June / 9 July 2008
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**Public Consultation**

54. In November 2001, the Working Party published an “*Interim Report and Consultative Paper*” containing various recommendations on changes to the civil justice system for seven months of consultation. During the consultation period, the Judiciary held various public seminars and briefings and almost 100 written submissions were received. Most of the proposals received significant support from those who responded in the consultation exercise, including the Bar Association and the Law Society. Having examined the responses, the Working Party submitted its Final Report in March 2004.

55. In April 2006, the Steering Committee decided on a package of proposed legislative amendments, and issued a “*Consultation Paper on Proposed Legislative Amendments for the Implementation of the CJR*” for a 3-month consultation ending in July 2006. The Steering Committee received 30 responses including responses from the two legal professional bodies, commenting mostly on technical and drafting details. The Steering Committee subsequently held meetings with the two legal professional bodies for detailed discussions. It accepted a number of comments from respondents and accordingly revised the package of proposed legislative amendments.

56. The Administration of Justice and Legal Services ("AJLS") Panel of the Legislative Council has been briefed from time to time on the CJR recommendations and the proposed legislative amendments. Specifically, the Working Party conducted briefings for the AJLS Panel and other interested members on both the Interim Report and the Final Report in 2001 and 2004 respectively. The Judiciary Administration briefed the AJLS Panel on the Consultation Paper on Proposed Legislative Amendments at the meeting on 26 June 2006, and the outcome of the 3-month consultation exercise at the meeting on 12 December 2006. The Panel had no objection in principle to the proposals and looks to examining the details of the Bill and the proposed amendments to the subsidiary legislation in due course.

57. The Steering Committee issued a set of "*Revised Proposals for Amendments to Subsidiary Legislation under the CJR*" for 1-month consultation in October 2007. Nine responses were received, including those from the two legal professional bodies and various Government Bureaux/Departments. Most of the comments received are technical in nature, and the Steering Committee has adopted many of the suggested amendments in this latest draft RHC.

**Judiciary Administration**  
**February 2008**