

Report of the Special Committee on Civil Justice Reform

The process of implementation of the Civil Justice Reform proceeded during the course of the year towards its conclusion.

As noted in last year's report in relation to the Special Committee, on 16 November 2007, the Special Committee prepared a submission for the Bar on the Revised Proposals for Amendments to Subsidiary Legislation under the Civil Justice Reform to the Steering Committee.

The Bar made a Submission dated 25 February 2008 concerning the Draft Subsidiary Legislation relating to Civil Justice Reform to the Legislative Council Subcommittee dealing with the amendments to that legislation.

On 29 February 2008, the Chairman and Secretary of the Special Committee, together with Ms Eva Sit, attended at the Legislative Council Subcommittee meeting and presented the Bar's views on the draft amendments to the subsidiary legislation relating to the Civil Justice Reform, namely the Rules of the High Court (Cap.4A), the Rules of the District Court (Cap.336H) and the Lands Tribunal Rules (Cap.17A).

At the invitation of the Legislative Council Subcommittee, the Special Committee prepared a letter dated 28 March 2008 for the Bar responding on three matters that had been raised by the Subcommittee, namely (a) the impact of the proposed legislative amendments, in particular those relating to pre-action protocols, judicial review and case management powers of the court, on unrepresented litigants, (b) the impact of the proposed rules in terms of justice between represented and unrepresented litigants, e.g. in the case of application for relief from sanctions for non-compliance of pre-action protocols (Order 2, rule 5), whether the former (who are expected to be capable of full compliance) would be put in a disadvantageous position vis-à-vis the latter (who are expected to be not familiar with the law and court procedures), and (c) whether it would be meaningful for Hong Kong courts to make reference to the relevant case law in UK if only certain provisions of the Civil Procedure Rules were adopted in Hong Kong.

On 23 July 2008 draft Practice Directions were provided to the Bar by the Steering Committee.

On 19 September 2008, the Chairman and Secretary of the Special Committee, together with Ms Liza Jane Cruden and Mr Raymond Leung (of the Special Committee on Personal Injuries), attended an informal meeting with the Judiciary's Steering Committee, to discuss the Practice Directions with others from the Law Society and Hong Kong University. On 17 October 2008, the Bar provided its comments in respect of the draft Practice Directions to the Steering Committee.

On 21 November 2008, revised draft Practice Directions were provided to the Bar for its comments.

Membership

Joseph Fok, SC (Chairman)

Rimsky Yuen, SC

Godfrey Lam, SC

Kumar Ramanathan

Liza Jane Cruden

P.Y. Lo (Secretary)

Linda Chan

Michael Yin

Colin Wright

Eva Sit

Joseph Fok, SC
Chairman
Special Committee on
Civil Justice Reform

1 December 2008