Civil Justice Reform
Recommendations Requiring Amendments to Subsidiary Legislation under the High Court Ordinance

The Steering Committee has identified that, in respect of the High Court, 84 recommendations in the Final Report on CJR require amendments to subsidiary legislation under the High Court Ordinance ("HCO"), including the Rules of the High Court ("RHC") (Cap. 4A) and the High Court Fees Rules ("HCFR") (Cap. 4D).

2. The 84 recommendations, the Rules they affect, and the relevant Amendment Rules in the Draft HC Amendment Rules at **Annex D** and HCF(A)R **Annex G** are tabulated below.

Item No.	Recommendations	Rules Affected	Amendment Rules
Section 4: Overriding Objectives and Case Management Powers Recommendations 2 – 4, 81 and 82			
1.	**Recommendation 2** A rule should be introduced identifying underlying (rather than overriding) objectives of the system of civil justice to assist in the interpretation and application of rules of court, practice directions and procedural jurisprudence and to serve as a statement of the legitimate aims of judicial case management.	RHC New Order 1A New Order 1B	Rule 1
2.	**Recommendation 3** The underlying objectives referred to in Recommendation 2 should be stated as (i) increasing cost-effectiveness in the court's procedures; (ii) the expeditious disposal of cases; (iii) promoting a sense of reasonable proportion and procedural economy in respect of how cases are litigated; (iv) promoting greater equality between parties; (v) facilitating settlement; and (vi) distributing the court's resources fairly, always recognizing that the primary aim of judicial case management should be to secure the just resolution of the parties' dispute in accordance with their substantive rights.		

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3.	**Recommendation 4** Rules should be introduced (along the lines of CPR 1.4) listing available case management measures and conferring (along the lines of CPR 3.1) specific case management powers on the court, including power to act of its own motion, exercisable generally and (unless excluded) in addition to powers provided by specific rules, in the light of the underlying objectives referred to in Recommendation 2.		
4.	**Recommendation 81** The parties should be encouraged by rule and practice direction, backed by costs sanctions, to adopt a reasonable and cooperative attitude in relation to all procedural issues.		
5.	**Recommendation 82** Where the court considers one or more procedural directions to be necessary or desirable and unlikely to be controversial between the parties, it ought to have power, of its own motion and without hearing the parties, to give the relevant directions by way of an order *nisi*, with liberty to the parties to apply within a stated period for that order not to be made absolute.		
Section 5: Pre-action Protocols Recommendations 7 – 9 and 84			
6.	**Recommendation 7** Rules should be introduced enabling the court when exercising any relevant power, in its discretion, to take into account a party's non-compliance with any applicable pre-action protocol in accordance with the terms of the protocol in question.	<u>RHC</u> Orders 1, 2, 11, 15 and 62 <u>N.B.</u> HCO section 52B, District Court Ordinance ("DCO") section 53, Small Claims Tribunal Ordinance Schedule and Lands Tribunal Ordinance ("LTO") section 12 also affected, see Item 1 of **Annex C**	Rules 2-8
7.	**Recommendation 8** In exercising its discretion, the court should bear it in mind that special allowances may have to be made in relation to unrepresented litigants, if it is the case that, not having access to legal advice, they were unaware of any applicable protocol obligations or, if aware of them, that they were unable fully to comply with them without legal assistance.		

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8.	**Recommendation 9** A procedure should be introduced to enable parties who have settled their substantive dispute to bring costs-only proceedings by way of originating summons and subject to practice directions, for a party-and-party taxation of the relevant pre-settlement costs.		
9.	**Recommendation 84** While it would be open to a party who has failed to comply with a self-executing order to seek relief from the prescribed consequences of his non-compliance, such relief should not be automatic and, if granted, should generally be granted on suitable terms as to costs and otherwise.		
Section 6 : Commencement of Proceedings Recommendations 10 – 16			
10.	**Recommendation 10** Application of the RHC should continue to be excluded in relation to the classes of proceedings set out in O 1 r 2(2) ("the excluded proceedings").	RHC Orders 1, 2, 5, 7, 8, 9, 17, 28, 30, 53, 73, 75, 76, 80, 83A, 89, 90, 100, 102, 115, 118, 119, 121 and Appendix A	Rules 9-62
11.	**Recommendation 11** In so far as appropriate, other specialised types of proceedings governed by their own procedural rules and requirements should be added to the excluded proceedings and special provision should be made in respect of election petitions.		
12.	**Recommendation 12** The rules of the RHC making it mandatory to commence certain proceedings by writ or, as the case may be, by originating summons, should be abolished.		

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13.	**Recommendation 13** In all cases other than the excluded proceedings, the parties should be permitted to commence proceedings either by writ or by originating summons, with the RHC indicating that a writ is appropriate where a substantial dispute of fact is likely and that an originating summons is appropriate where the main issue is one of law or construction, without involving any substantial dispute of fact.		
14.	**Recommendation 14** Originating motions and petitions should be abolished (save where they are prescribed for commencing any of the excluded proceedings).		
15.	**Recommendation 15** Unless the court otherwise directs (in accordance with applicable laws), all hearings of originating summonses should take place in open court.		
16.	**Recommendation 16** It should continue to be the case that an inappropriate mode of commencement does not invalidate steps taken in the proceedings so commenced and that in such cases, the court should give suitable directions for continuation of the proceedings in an appropriate manner.		
Section 7: Disputing Jurisdiction **Recommendation 17**			
17.	**Recommendation 17** Order 12 r 8 should be amended to the extent necessary 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.	RHC Order 12	Rules 63-64

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Section 8: Default Judgments and Admissions Recommendation 18			
18.	**Recommendation 18** Provisions along the lines of Part 14 of the CPR should be adopted in relation to claims for liquidated and unliquidated sums of money with a view to enabling defendants to propose payment terms (as to time and instalments) in submitting to entry of judgment by default.	RHC Appendix A, New Order 13A	Rules 65-66
Section 9: Pleadings Division 1 - Recommendations 22 - 24			
19.	**Recommendation 22** Proposal 10 (requiring defences to be pleaded substantively) should be adopted.	RHC Order 18	Rules 67-69
20.	**Recommendation 23** An exception to the general rule deeming the defendant to have admitted any untraversed allegation of fact in the statement of claim should be created along the lines of CPR 16.5(3) so 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.		
21.	**Recommendation 24** Proposal 10 should not be extended to pleadings subsequent to the defence.		
Section 9: Pleadings Division 2 - Recommendations 26 – 32 and 35			
22.	**Recommendation 26** Proposal 11 (requiring pleadings to be verified by a statement of truth) should be adopted as modified and supplemented by Recommendations **27** to **32**.	RHC Orders 18, 20 and 38 New Order 41A	Rules 70-77

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23.	**Recommendation 27** The rules should indicate the level or class of officer or employee who may sign a statement of truth verifying pleadings on behalf of a party that is a corporation, a partnership or an analogous organization or association.		
24.	**Recommendation 28** The rules should set out (along the lines of 22PD3.7 and 22PD3.8) the effect in law of a legal representative signing a statement of truth to verify a pleading on behalf of the party concerned.		
25.	**Recommendation 29** Insurers (or lead insurers) and the Hong Kong Motor Insurers Bureau should be authorized to sign a statement of truth to verify a pleading on behalf of the party or parties concerned (along the lines of 22PD3.6A and 22PD3.6B).		
26.	**Recommendation 30** The period allowed for defendants to file their defence should be increased to allow adequate time to plead substantively to a plaintiff's claim and to verify the defence.		
27.	**Recommendation 31** The possibility of proceedings for contempt being brought against a person who verifies a pleading by a statement of truth without believing that the factual allegations contained in the pleading are true should be maintained, but the rule should make it clear that such proceedings (to be brought either by the Secretary for Justice with the leave of the court) are subject to the general law of contempt and to be contemplated only in cases where sanctions for contempt may be proportionate and appropriate.		
28.	**Recommendation 32** A rule should be adopted making it clear that a party who has reasonable grounds for so doing, may advance alternative and mutually inconsistent allegations in his pleading and verify the same with a statement of truth.		

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29.	**Recommendation 35** Voluntary particulars should be expressly required to be verified by a statement of truth.		
Section 9: Pleadings Division 3 - Recommendations 33 and 34			
30.	**Recommendation 33** The court should have power to require, of its own motion and in such manner as it sees fit, any party or parties to particularise or amend their pleadings where clarification is necessary for disposing fairly of the cause or matter or for saving costs.	RHC Order 18	Rule 78
31.	**Recommendation 34** The existing rule should be amended to make it clear that a court will only order delivery of further and better particulars where such order is necessary for disposing fairly of the matter or for saving costs.		
Section 11: Sanctioned Offers and Payments Recommendations 38 – 43 and 132			
32.	**Recommendation 38** Proposal 15 (for introducing sanctioned offers and payments along the lines of CPR 36) should be adopted as modified and supplemented by Recommendations 39 to 43.	RHC Order 22 New Order 22A New Order 62A Appendix A	Rules 79-90
33.	**Recommendation 39** The defendant's position under Order 22 should in substance be preserved, but with the addition of the relevant ancillary provisions found in CPR 36.	Consequential Amendments Orders 29, 34, 59, 62, 75, 80, 82 and 92	
34.	**Recommendation 40** While parties should be encouraged to settle their disputes by negotiation, offers made before commencement of the proceedings should not qualify as sanctioned offers, save to the extent that a pre-action protocol which has been adopted in relation to particular specialist list proceedings provides otherwise in respect of such specialist list proceeding.		

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35.	**Recommendation 41** A sanctioned offer or payment should be required to remain open for acceptance for 28 days after it is made (such 28 day period falling before commencement of the trial), unless leave is granted by the court for its earlier withdrawal. Thereafter, the offer could be withdrawn and if not, would continue to be capable of acceptance.		
36.	**Recommendation 42** The rules should make it clear that the court will continue to exercise its discretion as to costs in relation to any offers of settlement which do not meet the requirements to qualify as sanctioned offers.		
37.	**Recommendation 43** The rules should make it clear that a plaintiff may qualify for an award of additional interest along the lines of Part 36 where he makes a sanctioned offer which satisfies the prescribed requirements, but not otherwise.		
38.	**Recommendation 132** The procedure for making sanctioned offers and payments should be extended to pending costs taxations, save in relation to legally-aided parties.		
Section 12: Interim Remedies and Mareva Injunctions in Aid of Foreign Proceedings Recommendations 49 - 51			
39.	**Recommendation 49** The mode of commencing an application for a Mareva injunction in aid of foreign proceedings or arbitrations, including possible initial *ex parte* applications, should be prescribed and provision made for the procedure thereafter to be followed.	RHC Orders 29, 30 and 73 HCFR First Schedule	Rules 91-93

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40.	**Recommendation 50** The relevant provisions should state that such Mareva injunctions are entirely in the court's discretion and that in the exercise of that discretion, the court is to bear it in mind that its jurisdiction is only ancillary and intended to assist the processes of the court or arbitral tribunal which has primary jurisdiction.	N.B. HCO section 21L, new sections 21M and 21N; Arbitration Ordinance section 2GC and new section 49 also affected. See Item Nos. 3-6 of **Annex C**.	
41.	**Recommendation 51** Provision should be made empowering the court to make such incidental orders as it considers necessary or desirable with a view to ensuring the effectiveness of any Mareva injunction granted, to the same extent that it is able to make such orders in relation to purely domestic Mareva injunctions.		
Section 13: Case management, Timetabling and Milestones Recommendations 52 – 60 and 62			
42.	**Recommendation 52** Procedures should be introduced for establishing a court-determined timetable taking into account the reasonable wishes of the parties and the needs of the particular case.	RHC Order 25	Rules 94-97
43.	**Recommendation 53** As the first part of the summons for directions procedure, the parties should be required (i) to complete a questionnaire giving specified information and estimates concerning the case with a view to facilitating case management by the court; and (ii) to propose directions and a timetable to be ordered by the court, preferably put forward by agreement amongst the parties, but with the court affording unrepresented litigants leeway in their observance of these requirements.		

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44.	**Recommendation 54** Unless it appears to the court that a hearing of the summons for directions is in any event desirable, the court ought to make orders *nisi* giving such directions and fixing such timetable for the proceedings as it thinks fit in the light of the questionnaire and without a hearing. However, any party who objects to one or more of the directions given, should be entitled to have the summons for directions called on for a hearing.		
45.	**Recommendation 55** Where, at the summons for directions stage, the court's view is that a case management conference is desirable, the court should fix a timetable up to the date of the case management conference, that date constituting the first milestone, with further milestones to be fixed when the case management conference is held.		
46.	**Recommendation 56** A date for a pre-trial review and the trial date or the trial period should be fixed as milestone dates either at the summons for directions or at any case management conference held.		
47.	**Recommendation 57** Where all the parties agree to a variation of time-limits for non-milestone events in the timetable, they may effect such variations by recording the agreement in counter-signed correspondence to be filed as a matter of record with the court, provided that the agreed variations do not involve or necessitate changes to any milestone date.		
48.	**Recommendation 58** Where a party cannot secure the agreement of all the other parties for a time extension relating to a non-milestone event, a court should have power to grant such extension only if sufficient grounds are shown and provided that any extension granted does not involve or necessitate changing the trial date or trial period. It should be made clear in a practice direction that where an extension is granted, it is likely to involve an immediate "unless order" specifying a suitable sanction.		

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49.	**Recommendation 59** A court should have power, on the application of the parties or of its own motion, to give further directions and to vary any aspect of the timetable, including its milestone dates, but it should be made clear in a practice direction that a court would only contemplate changing a milestone date in the most exceptional circumstances.		
50.	**Recommendation 60** Where the parties fail to obtain a timetable, the court should not compel them to continue with the proceedings. However, where a pre-trial milestone date has been set, the court should, after giving prior warning, strike out the action provisionally if no one appears at that milestone hearing. A plaintiff should have 3 months to apply to reinstate the action for good reason, failing which the action should stand dismissed and the defendant should automatically be entitled to his costs. Thereafter, the defendant should have a further three months to reinstate any counterclaim, which would also stand dismissed with no order as to costs in default of such application.		
51.	**Recommendation 62** The recommendations made in this Final Report regarding timetables and milestones should not apply to cases in the specialist lists save to the extent that the courts in charge of such lists should choose to adopt them in a particular case or by issuing appropriate practice directions and subject to what has previously been recommended regarding the retention of a Running List.		

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Section 14: Vexatious Litigants Recommendation 69			
52.	**Recommendation 69** All applications to have a person declared a vexatious litigant should be made directly to the single judge.	RHC Order 32, New Order 32A New Form 110 to Appendix A HCFR First Schedule N.B. HCO section 27 also affected. See Item Nos. 7-8 of **Annex C**.	Rules 98-101
Section 16: Discovery Recommendations 76, 79 and 80			
53.	**Recommendation 76** Such jurisdiction should be exercisable where it is shown by the applicant that he and the respondent are both likely to be parties to the anticipated proceedings and that disclosure before the proceedings have been started is necessary to dispose fairly of the anticipated proceedings or to save costs.	RHC Orders 24 and 62 N.B. HCO sections 42, 43, 45, new section 41A; DCO sections 47B, 47C and 47E, and new section 47AA also affected. See Item nos. 9-11 of **Annex C**.	Rules 102-105
54.	**Recommendation 79** The requirements to be met and procedure to be followed when seeking orders referred to in the Recommendation **78** should be as laid down by O 24 r 7A in respect of section 42(1) orders and by O 24 r 13, with any necessary or desirable modifications.		
55.	**Recommendation 80** Proposal 29 (for the case management of discovery by the courts) should be adopted, but with *Peruvian Guano* principles as the primary measure of discovery, taken as the starting-point for such case management.		

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Section 17: Interlocutory Applications Recommendations 83, 85 and 86			
56.	**Recommendation 83** When disposing of interlocutory applications after the summons for directions, the court should normally make orders which specify the automatic consequences of non-compliance appropriate and proportionate to the non-compliance in question. Orders specifying such consequences may, if appropriate, also be made where the interlocutory application is heard before the summons for directions. However, the directions given on the summons for directions itself should generally not specify any such consequences.	RHC Order 32	Rules 106-107
57.	**Recommendation 85** All interlocutory applications (other than time summonses and applications for relief against the implementation of sanctions imposed by self-executing orders previously made) should be placed before the master who may either to determine the application on the papers and without a hearing or to fix the summons for hearing either directly before a judge in chambers or before a master.		
58.	**Recommendation 86** Rules and practice directions should be issued, in respect of the setting of the timetable and the filing of evidence, skeleton arguments and costs statements to enable the master to exercise his discretion as aforesaid.		
Section 17: Summary Assessment of Costs Recommendations 88, 89 and 92			
59.	**Recommendation 88** The court should, whenever appropriate (whether as a response to an unwarranted application or unwarranted resistance to an application, with a view to saving costs; or otherwise), make a summary assessment of costs when disposing of interlocutory applications.	RHC Order 62	Rules 108-110

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60.	**Recommendation 89** Rules and practice directions along the lines indicated in this section of the Final Report should be adopted to regulate the making and implementation of orders for the summary assessments of costs.		
61.	**Recommendation 92** Judges and masters should be empowered to make provisional summary assessments of costs, whereby the assessed sum must promptly be paid but allowing either party, at the end of the main proceedings, to insist on a taxation of the relevant costs with a view to adjusting the quantum of the payment made, but with the party who insists on such a taxation being at risk as to a special order for the costs of the taxation and other possible sanctions in the event that the taxation does not result in a proportionate benefit to him.		
Section 18: Wasted Cost Recommendations 94 - 97			
62.	**Recommendation 94** Rules along the lines of paragraphs 53.4 to 53.6 of the CPR Practice Direction on Costs, modified to exclude reference to liability based on negligence, should be issued providing guidance for the exercise of the court's discretion and discouraging disproportionate satellite litigation in relation to wasted costs orders.	RHC Order 62 N.B. HCO section 52A also affected. See Item Nos. 12-15 of **Annex C**.	Rule 111-113
63.	**Recommendation 95** Applications for wasted costs orders should generally not be made or entertained until the conclusion of the relevant proceedings.		

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64.	**Recommendation 96** Rules should be issued making it clear (i) that it is improper to threaten wasted costs proceedings with a view to pressurising or intimidating the other party or his lawyers; and (ii) that any party who wishes to put the other side's lawyers on notice of a potential claim for wasted costs against them should not do so unless he is able, when doing so, to particularise the misconduct of such lawyers which is alleged to be causing him to incur wasted costs and to identify evidence or other materials relied on in support.		
65.	**Recommendation 97** Barristers should be made subject to liability for wasted costs under O 62 r 8.		
Section 19: Witness Statements and Evidence Recommendation 100			
66.	**Recommendation 100** Proposal 37 (for introducing greater flexibility in permitting a witness to amplify or supplement his witness statement) should be adopted, replacing O 38 r 2A(7)(b) by a rule along the lines of CPR 32.5(3) and (4).	RHC Order 38	Rule 114
Section 20: Expert Evidence Recommendations 102, 103 and 107			
67.	**Recommendation 102** A rule along the lines of CPR 35.3 declaring that expert witnesses owe a duty to the court which overrides any obligation to those instructing or paying the expert should be adopted.	RHC Order 38 New Appendix D	Rules 115-119

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68.	**Recommendation 103** A rule along the lines of CPR 35.10(2) combined with Part 36 of the NSW rules should be adopted, making it a requirement for the reception of an expert report or an expert's oral testimony that (a) the expert declares in writing (i) that he has read the court-approved Code of Conduct for Experts and agrees to be bound by it, (ii) that he understands his duty to the court, and (iii) that he has complied and will continue to comply with that duty; and (b) that his expert report be verified by a statement of truth.		
69.	**Recommendation 107** The court should be given power to order the parties to appoint a single joint expert upon application by at least one of the parties, subject to the court being satisfied, having taken into account certain specified matters, that the other party's refusal to agree to a SJE is unreasonable in the circumstances.		
Section 21: Case Management Trials **Recommendation 108**			
70.	**Recommendation 108** A rule along the lines of O 34 r 5A of the Western Australian Rules of the Supreme Court should be adopted, setting out the court's powers of case management in relation to trials, together with a practice direction providing that such powers should primarily be exercised at the pre-trial review.	RHC Order 35	Rule 120
Section 22: Leave to Appeal **Division 1 - Recommendation 109**			
71.	**Recommendation 109** An appeal should lie as of right from the master to the judge (whether from a decision on the papers or after a contested hearing) but with the introduction of fresh evidence for the purposes of the appeal precluded save in exceptional circumstances.	RHC Order 58	Rule 121

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Section 22: Leave to Appeal Division 2 - Recommendations 110 and 112			
72.	**Recommendation 110** Interlocutory appeals from the CFI judge to the Court of Appeal should be subject to a condition of leave to appeal save in relation to (i) defined classes of interlocutory decisions which are decisive of substantive rights; and (ii) certain other defined categories of decisions, including those concerning committal, habeas corpus and judicial review.	RHC Order 59 N.B. HCO section 14 and section 34B and new section 14AA; DCO section 63; LTO section 11; and Employees' Compensation Ordinance ("ECO") section 23 also affected. See Item Nos. 16-20 of **Annex C**.	Rules 122-123
73.	**Recommendation 112** A procedure designed to avoid separate oral hearings of applications for leave to appeal should be adopted, generally requiring any application before the CFI judge to be made at the original hearing and, if refused, for any further application for leave to be made in writing and usually dealt with by the Court of Appeal comprising two Justices of Appeal, on the papers and without an oral hearing. Where considered necessary, the Court of Appeal should be able to direct that there be an oral hearing before the original two judges or before a panel of three judges.		
Section 23: Appeals Recommendation 120			
74.	**Recommendation 120** Applications which are interlocutory to pending appeals should be dealt with on paper by two Justices of Appeal, who should have power to make any orders necessary without a hearing, giving brief reasons for their decision; or, alternatively, to direct that there be a hearing before themselves or before a panel of three judges.	RHC Order 59 N.B. HCO section 34B also affected. See Item No. 21 of **Annex C**.	Rule 124

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Section 24: General Approach to Inter-party Costs Recommendation 122			
75.	**Recommendation 122** The principle that the costs should normally "follow the event" should continue to apply to the costs of the action as a whole. However, in relation to interlocutory applications, that principle should be an option (which would often in practice be adopted) but should not be the prescribed "usual order". Costs orders aimed at deterring unreasonable interlocutory conduct after commencement of the proceedings should be given at least equal prominence in practice, with the court being directed to have regard to the underlying objectives mentioned in relation to Proposal 1. These powers should not apply to pre-action conduct.	RHC Order 62	Rules 122-128
Section 27: Taxing the Other Side's Costs Division 1 - Recommendation 131			
76.	**Recommendation 131** Proposal 57 (for the abolition of a special rule governing taxation of counsel's fees) should be adopted.	RHC First Schedule to Order 62	Rule 129
Section 27: Taxing the Other Side's Costs Division 2 - Recommendation 134 Division 3 – Recommendations 135-136 Division 4 – Miscellaneous Division 5 – Transitional arrangement			
77.	**Recommendation 134** The court should have a general discretion to conduct provisional taxations on the papers, with any party dissatisfied with the award being entitled to require an oral taxation hearing, but subject to possible costs sanctions if he fails to do materially better at the hearing.	RHC Order 62 HCFR First Schedule	Rules 130-146

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78.	**Recommendation 135** Rules or practice directions, backed by flexible costs sanctions, should be introduced requiring the parties to a taxation to file documents in prescribed form, with bills of costs supported by and cross-referenced to taxation bundles and objections to items in such bills taken on clearly stated grounds.		
79.	**Recommendation 136** Rules conferring a broad discretion on the court in respect of the costs of a taxation and giving guidance as to the exercise of such discretion should be introduced along the lines of CPR 44.14 and CPR 47.18, suitably modified to fit local circumstances.		
Section 31: Judicial Review Recommendations 144 - 148			
80.	**Recommendation 144** Rules along the lines of CPR 54.1 to 54.3, suitably adapted, retaining the present terminology, should be adopted for defining the scope of judicial review proceedings in Hong Kong.	RHC Order 53 Appendix A	Rules 147-157
81.	**Recommendation 145** Provision should be made to enable persons wishing to be heard at the substantive hearing, subject to the court's discretion, to be heard in support of, as well as in opposition to, an application for judicial review.		
82.	**Recommendation 146** Applications for leave to bring a claim for judicial review should be required to be served with all supporting evidence on the proposed respondent and on any other persons known by the applicant to be directly affected by the claim, unless the court otherwise direct.		

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83.	**Recommendation 147** Persons served should be given the choice of either acknowledging service and putting forward written grounds for resisting the application or grounds in support additional to those relied on by the applicant; or declining to participate unless and until the applicant secures leave to bring the claim for judicial review.		
84	**Recommendation 148** If leave is granted, the order granting leave and any case management directions should be required to be served by the applicant on the respondent (whether or not he has acknowledged service) and on all interested parties who have acknowledged service, such persons then becoming entitled, if they so wish, to file grounds and evidence to contest or to support on additional grounds, the claim for judicial review.		