

**Subcommittee on District Court Equal Opportunities  
(Amendment) Rules 2014**

**Responses to the list of follow-up actions  
arising from the discussion at the meeting on 30 July 2014**

**PURPOSE**

This paper sets out the responses from the Judiciary Administration to the list of follow-up actions arising from the discussion at the meeting on 30 July 2014.

**RESPONSES**

**(a) Whether the simplified procedures set out under the District Court Equal Opportunities (Amendment) Rules 2014 ("the Rules") should only apply to the adjudication of causes of action under a relevant Ordinance ("EO claims"), or they could also apply to cases involving both EO claims and other causes of action (e.g. negligence at common law) ("mixed claims").**

2. The simplified procedures should apply whenever there is a claim under a relevant ordinance (see the new rule 7 of the District Court Equal Opportunities Rules (Cap. 336G)). It should be noted that a plaintiff may deviate from Form 1 (designed for EO claims) to plead his non-EO claim (see section 37(1) of the Interpretation and General Clauses Ordinance (Cap. 1)).

**(b) Whether the mixed claims should be dealt with separately so that the EO claims would be handled in accordance with the simplified procedures under the Rules while the other causes of action would be dealt with in accordance with the existing procedures under the Rules of the District Court (Cap. 336H), and whether the claimant would be allowed to choose between the simplified and existing procedures in making the mixed claims.**

3. This is fact-sensitive and should be dealt with on a case-by-case basis. The general principle is that a failure to comply with the rules (e.g. in respect of manner or form in the beginning of any proceedings) shall not nullify the proceedings, and the court has the general power to deal

with the situation under Order 2, rule 1 of the Rules of the District Court (“RDC”) (Cap. 336H).

- (c) **If an action involving mixed claims was commenced by writ in accordance with the existing procedures under Cap. 336H, whether the court was empowered (and if so, under which provisions of the Rules and/or Cap. 336H) to direct at an appropriate juncture –**
- (i) **such mixed claims to be proceeded with separately so that the EO claims would be dealt with pursuant to the simplified procedures under the Rules while the other causes of action would be proceeded with pursuant to the existing procedures under Cap. 336H; or**
  - (ii) **the whole action involving mixed claims to be proceeded with under the existing procedures in accordance with Cap. 336H.**

4. As stated above, the court has the general power under Order 2, rule 1 of the RDC to make such order as it thinks fit to enable the mixed claims to proceed. Furthermore, the court has the power to order separate trials (under Order 15, rule 5 of the RDC), and transfer proceedings in and out of a particular list (under Order 72, rules 5 and 6 of the RDC). In the exercise of its powers, the court will seek to give effect to the underlying objectives under Order 1A, rule 1 of the RDC.

- (d) **Whether the Rules were capable of catering for circumstances involving parties who were minors, incapacitated or deceased.**

5. The existing rules in the RDC governing proceedings by and against estates (Order 15, rule 6A), change of parties by reason of death (Order 15, rule 7) and disability (Order 80) continue to apply to EO proceedings by virtue of the new rule 4(2) of Cap. 336G.

**Judiciary Administration  
August 2014**