

LC: Speech by SJ on Solicitors (General) Costs (Amendment)
Rules 2013

President,

The Solicitors (General) Costs (Amendment) Rules 2013 (Rules) were made under section 74 of the Legal Practitioners Ordinance. The Rules were published in the Gazette on June 21, 2013 and tabled at the LegCo afterwards.

According to section 74 (3) (a) of the Legal Practitioners Ordinance, the Rules should be made by the Costs Committee. However, the Rules as appeared in the Gazette were signed by members of the Council of the Law Society of Hong Kong instead of members of the Costs Committee. The House Committee formed a subcommittee to consider whether the Rules were properly made and the follow-up actions required. The Subcommittee held two meetings, and I would like to thank the Subcommittee Chairman, the Hon Dennis Kwok, and its other Members, for their valuable views.

As stated in the Report of the Subcommittee, the Administration has proposed three options for the Subcommittee's consideration. The relevant details are set out in the Report, and I would better not repeat them here.

One of the options, i.e. Option (1) in the Report, involves publication of a new set of rules to be made by the proper party, namely the Costs Committee, with a corrigendum in the Gazette to explain the error. The Administration had indicated its preference for option (1), and I noted that the majority of the Subcommittee Members agreed that option (1) should be adopted for the following reasons. Firstly, it is apparent on the face of the record that the Rules as published in the Gazette on June 21 were not made by the proper authority vested with the requisite powers under the Legal Practitioners Ordinance. Secondly, there is no pending or

on-going court case to challenge the legal effect of the Rules as a piece of subsidiary legislation. Thirdly, the Rules have not yet come into operation. Fourthly, there are precedent cases on the adoption of option (1). Finally, option (1) is most straight-forward among the three options.

I understand that the Costs Committee will convene a meeting shortly to follow up on this matter, and I believe that the Law Society will take appropriate steps to prevent the recurrence of similar incidents in the future.

Thank you, President.

Ends/Wednesday, November 6, 2013