

The Student Union of The Chinese University of Hong Kong
The Rules of the Judicial Committee
(Section 21, Judicial Committee Ordinance)

1. Citation and Effectiveness

- (1) These rules shall be cited as “the Rules of the Judicial Committee”
- (2) These rules shall take effect since 6th April 2017.

2. Applicable Scope and Aims

- (1) These rules shall be applicable to all court proceedings.
- (2) The overriding aims of these rules are to ensure court cases to be dealt with a sense of procedural economy, fairness and efficiency.
- (3) When the Court interprets these rules, it shall strive to achieve the overriding aims and avoid any procedural disputes.

3. Definitions

- (1) Unless the context indicates otherwise—
“The Court” means the Court of First Instance and the Court of Appeal.
“The Constitution” means the Constitution of the Student Union of the Chinese University of Hong Kong.
- (2) Address of the Registry shall be the address specified in the Practice Directions.

4. Service of Documents

- (1) Documents shall be served to parties of litigation—
 - (a) In person;
 - (b) By post to the recipient’s address;
 - (c) By email to the recipient’s email address.
 - (d) By hand delivery to the Registry, by which The Registry shall notify the recipient to collect the documents in person from the Registry during its opening or specified hours.
- (2) If the recipient’s address or email address is unspecified, the Registrar shall instruct other methods for service.
- (3) The Registrar or the Court shall order the recipient to submit the certificate of service to court for filing.
- (4) The certificate of service must specify details, including the recipient’s personal details, service method and date of service.

5. Filing Documents

- (1) Documents shall be filed with the following means—
 - (a) In person at the Registry;

- (b) By post to the Registry's address;
- (c) By email to the Registry's email address with the consent of the Registrar,
- (2) Unless with the Registrar's consent, documents must be handed both in paper and electronic forms.
- (3) In view of any court document submission, the Registrar or other Court Officers shall stamp or include tags on the paper to indicate the time of submission.

6. Deadline

- (1) The Court shall extend or shorten the deadline stipulated by these rules at its discretion or as demanded by the parties of ligation.
- (2) The Registrar shall notify all parties when the deadline is modified in accordance with these rules.
- (3) Application for extension can be made and approved after the deadline.

7. Waiver of Right to Object

- (1) If any party of ligation is aware of a contravention of these rules or the Practice Directions, while no objections have been made regarding the confirmation of contravention after 7 days, the party shall be considered as waiving their right to object.

8. Disqualification of Hearing Member of the Judicial Committee

- (1) Before convening the hearing, or in the midst, the hearing Member of the Judicial Committee must disclose timely to the parties of litigation of all circumstances that shall raise reasonable doubts against their impartiality and independence.
- (2) The parties of litigation shall only apply to disqualify the hearing Member of Judicial Committee with reasonable doubts against their impartiality and independence; Such application shall be processed by the hearing Member of Judicial Committee.
- (3) If the Member of the Judicial Committee deems the disqualification necessary, they must notify the Chief of the Judicial Committee so that the case can be reassigned to other Members for handling.

9. Power of the Court in Jurisdiction

- (1) The Court has the power to rule on matters related to its jurisdiction.
- (2) Any application to challenge the Court's jurisdiction shall not be made after the submission of Statement of Defence.
- (3) The Court shall see and rule on the matter in Subsection (2) as preliminary or handle the matter in a judicial ruling.

10. Power of the Court in Issuing Interim and Emergency Injunctions

- (1) The Court has the power to issue interim and emergency injunctions.

- (2) Except for the emergency injunction announced in Section 12 of these rules, the relevant party shall have a chance to object to the injunction before the Court puts it into effect.

11. Interim Injunction

- (1) Upon notifying the opposing side, the parties of litigation shall propose the interim injunction before the Court's ruling.
- (2) Generally speaking, an interim injunction shall continue to take effect before the Court's ruling.
- (3) An interim injunction includes (but not limited to) any order that—
 - (a) Restores or maintains situations before a case has been ruled;
 - (b) Restrains and prohibits acts that impede judicial proceedings or impartiality;
 - (c) Ensures the execution of ruling; and
 - (d) Preserves the relevant and significant evidence.

12. Emergency Injunction

- (1) A party of litigation shall apply for both interim and emergency injunctions at the same time without notifying the opposing side.
- (2) If the Court agrees that, notifying the targeted party of the interim injunction can obstruct its aims, it shall issue an emergency injunction.
- (3) After the Court approves the application for emergency injunction, the Applicant must immediately serve the following documents to other parties of litigation —
 - (a) A copy of application for the interim injunction;
 - (b) A copy of application for the emergency injunction;
 - (c) A copy of the emergency injunction; and
 - (d) All other relevant documents submitted by the Applicant to the Court.
- (4) The Court must offer the targeted opposing side a reasonable opportunity to object to the emergency injunction at its earliest and possible time.
- (5) The Court shall enter the judgement regarding the application for emergency injunction in a swift manner.
- (6) Unless the Court instructs otherwise, the effect of an emergency injunction shall lapse in 14 days after issuing; The Court however, shall replace the emergency injunction with an interim injunction after offering the targeted party a reasonable opportunity to object.

13. Service and Filing of Originating Documents

- (1) If the applicant, Complainant or Prosecution hopes to commence legal proceedings on the Respondent regarding some matters, they must serve the Originating documents to all the Respondents and the Court for filing.
- (2) The Originating Documents –
 - (a) means the Statement of Prosecution regarding the Member of the Union who has been opened a case against and charged of committing disciplinary action;

- (b) means the Statement of Prosecution regarding the Officers of the Union who has been opened a case against and impeached;
- (c) means the documents stated in Section 14 of these rules necessary for the application for leave in a judicial review;
- (d) means the application form and Witness Statement that verifies the facts; Such application form must specify –
 - (i) Name and description of the Applicant;
 - (ii) Name and description of the Defendant;
 - (iii) The orders to be sought and grounds on which the orders are to be sought; and
 - (iv) The service address of the Applicant.

14. Application for Judicial Review

- (1) Unless a leave has been granted by the Court with accordance to this section, no applications for judicial review shall be submitted.
- (2) Application for leave must only be put forward on an ex parte basis (suggesting a plea shall not be made by another party); The documents that must be served to all the Respondents and the Court for filing include—
 - (a) An application for leave for judicial review which includes the following —
 - (i) Name and description of the Applicant;
 - (ii) Name and description of the Defendant;
 - (iii) The relief(-ves) to be sought and grounds on which the relief(-ves) are to be sought;
 - (iv) Name and description of all interested parties (if any) known to the Applicant;
 - (v) The service address of the Applicant; and
 - (b) The Witness Statement that verifies the facts.
- (3) Unless the application form provides justifiable reasons for the commencement of a hearing, the Court otherwise shall give a judgement regarding the application for leave without a hearing; The Registrar must notify such decision to all the interested parties including the Applicant and Defendant.
- (4) The Court shall direct the matters on Case Management(including scheduling of the hearing) after granting the leave for the judicial review.
- (5) Unless the Court considers the Applicant to have sufficient interests in the concerning matter, a leave shall not be granted.

15. Delay in Application for Judicial Review

- (1) An application for leave for judicial review shall be made promptly.
- (2) Under any circumstances, the application for leave for judicial review must be put forward within 3 months after the date of confirming the applying reasons; But it shall

be an exception if the Court considers any justifiable reasons to extend the application's deadline.

16. Defence Documents

- (1) Except as stipulated in Subsection (2), the Defendant or Respondent must serve the Defence Documents to the Applicant, Complainant or Prosecution, as well as submit them for court filing within 30 days after the Originating Documents have been served.
- (2) For the case of an application for judicial review, the Respondent must serve the Defence Documents to the Applicant and submit them for court filing within 30 days after the leave for the judicial review has been granted.
- (3) The Defence Documents shall include —
 - (a) A Statement of Defence with grounds of defence ; and
 - (b) A Witness Statement that verifies the facts.
- (4) When the deadlines listed above expire, if the Defence Documents still have not been served to the Complainant or Applicant and submitted for court filing, the Court shall enter judgement against the Defendant or Respondent.

17. Amendment of Court Documents

- (1) Both parties may apply for leave to revise any documents that have been filed to the Court.
- (2) Unless the Court deems the revisions as untimely, shall grant such leave at its discretion.

18. Case Management

- (1) In regard of Case Management, the Court shall instruct either at its discretion or as demanded by the parties of litigation.
- (2) The Court shall make any appropriate order to handle cases, including but not limited to—
 - (a) Convening a Case Management meeting, to direct the following matters—
 - (i) Scheduling of the hearings;
 - (ii) Clarifying if matters are in disputes among parties of litigation;
 - (iii) Arrangement of parties of litigation addressing the Court;
 - (iv) Arrangement of calling of witnesses among parties of litigation (if applicable);
 - (v) Arrangement of further submission of court documents; and
 - (vi) Any other matters related to the hearing.
 - (b) Continuing the session in the event of absence without reasonable excuse from either side of litigation, the Court shall command to continue the session;
 - (c) Appointment of an amicus curiae;
 - (d) Appointment of court translator or other court officers; and
 - (e) Approval of parties to appoint litigation representatives.

19. Issue of Judgement

- (1) At the end of the hearing, the Court shall serve a judgement immediately; deliver a judgement but delay in giving reasons to the judgement; or hand down the judgement on a later date.
- (2) The Court must announce the Judgement within a reasonable timeframe, and notify the parties of the action regarding the estimated time needed for announcement;
- (3) The Chief Justice of the Judicial Committee shall further instruct by Practice Directions as to enable the Court to serve its judgement within a reasonable timeframe.
- (4) The Rule is applicable to the judgement, verdict, decision, ruling that are handed down on a later day.

20. Application to Court of Appeal for Leave to Appeal

- (1) An application to the Court of Appeal for leave to appeal must be filed to the Court specifying—
 - (a) the ground on which the leave should be granted; and
 - (b) if the deadline for appeal has expired, the reasons why the application was not timely submitted.
- (2) Unless the commencement of a hearing is requested in the application form, the Court otherwise shall give a judgement regarding the application for leave without a hearing; The Registrar must notify such decision to all the interested parties including the Appellant and Respondent.
- (3) Application for leave to appeal must be made within 14 days after the service of the original judgement.
- (4) If the Respondent objects to the Appellant for leave to appeal, he must file to the Court and serve to the Appellant his objections in writing with the grounds of appeal within 14 days after application for leave to appeal is made.

21. Application for Certificate to the Court of First Instance

- (1) Where a party satisfies the relevant conditions and applies for an appeal on an ex parte basis, the Court of First Instance shall grant a certificate attesting to that.
- (2) The relevant conditions are satisfied if the issue concerned is of wide public importance and that it falls under the following circumstances—
 - (a) The Court of First Instance is legally bound by previous judgements made by the Court of Appeal; and
 - (b) The issue concerned has been fully considered by the Court of First Instance
- (3) The application for certificate to the Court of First Instance shall be made within 7 days after receiving the Court of First Instance's decision.

22. Case

- (1) The Complainant must fill and serve Appellant's Case to the Court and the Respondent within—

- (a) 7 days after leave for appeal is granted;
- (b) 7 days after certificate is granted.
- (2) The Respondent must serve a Respondent's Notice to the Complainant and submit it to the Court of Appeal for filing within 14 days of service.
- (3) The Notice of Appeal must specify the grounds of appeal and the Respondent's Notice must specify the grounds of contention. Each case must include a draft order.
- (4) Except with the Court of Appeal's approval, either party shall not rely on any other grounds or apply for any relief that is not stated in their respective Cases.

23. Sureties

- (1) Each party shall pay a sum of \$320 of sureties when they file their Originating Documents, Defence Documents, and Case to the Court.
- (2) The Court shall at any time make any appropriate order that—
 - (a) Forfeit such amount of sureties; and
 - (b) Release such amount of sureties.
- (3) The Court shall order either party to further pay a sum of \$320 of sureties when deemed necessary. If the party fails to pay the sum to the Court before the specified deadline, the Court shall make any order as it sees fit.

24. Forms

- (1) The forms referred to in these rules mean the forms specified by the Practice Directions.
- (2) With appropriate instructions from these rules and Practice Directions, unless specified otherwise by the Court, or the other party considers the forms to be changed according to the case, such forms must be used,

25. Open Court Hearing

- (1) Except as stipulated in Paragraph (2), the presiding judge or hearing member must in any case conduct an open court hearing.
- (2) Any single member from the Court of First Instance shall exercise powers that do not involve substantial judgement. The manner in which the power is exercised shall be similar to the Court of First Instance, and shall be subjected to the same Rules.

26. Seal of the Court

Any document or copy of document sealed by the Court and signed by the Registrar is regarded as confirmation made by the Court thereof without further proof.

Note: The English Translation is for reference only.