

**IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE**

MISCELLANEOUS PROCEEDINGS NO. 1855 OF 2022

**IN THE MATTER OF THE CROWN ATTORNEY GENERAL / LIQUIDATOR /
MANAGING CONTROLLER & THE CROWN (LIQUIDATOR AND MANAGING
CONTROLLER APPOINTED) & ORS.**

**PROPOSED FURTHER ORDERS AND GROUNDS
REPRESENTATIVE PROCEEDING UNDER ORDER 15, RULE 12**

Filed on theday of, 20

Applicant in Person: Andrew Morton Garrett; represented by Scott Cameron Mitchell, Power of Attorney.

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Important procedural characterisation. The relief below is framed as a representative proceeding under Order 15, rule 12 of the Rules of the High Court (Cap. 4A), rather than as an Australian statutory class action. It does not ask the Court to determine at this interlocutory stage that any government is invalid or unlawful. It asks the Court to determine whether the Applicant may represent a defined class of persons having the same interest in the identified questions and relief.

A. PROPOSED ADDITIONAL ORDERS

1. Pursuant to Order 15, rule 12 of the Rules of the High Court (Cap. 4A), and subject to such further directions as the Court considers necessary, the Applicant be permitted to continue HCMP 1855 of 2022 in a representative capacity on behalf of those Australian citizens who have the same interest in the common questions identified in the supporting evidence and who fall within the class definition approved by the Court.
2. For the purpose of the preceding order, the proposed represented class be defined, provisionally and subject to amendment, as: 'Australian citizens who contend that they are affected in the same legal capacity by the acts, instruments, appointments, decisions, omissions or governmental arrangements impugned in HCMP 1855 of 2022, and who seek the same declaratory, preservatory, record-production or consequential relief arising from the alleged invalidity or unlawfulness of those matters.'
3. The Court determine, as preliminary case-management questions, whether: (a) the proposed represented persons have the same interest within Order 15, rule 12; (b) the Applicant's claim and interest are truly representative of that class; (c) the pleaded common questions can fairly and efficiently be determined in representative form; and (d) any persons or subgroups require separate representation, joinder, notice or exclusion.
4. No final declaration that the Commonwealth of Australia, any State or Territory government, or any governmental institution is invalid or unlawful be made on this interlocutory application. Any such issue be determined only after the Court has settled the parties, class definition, standing, jurisdiction, service, evidence and questions for determination.
5. The Applicant file and serve, or otherwise provide as the Court directs, a concise schedule identifying: (a) the impugned acts, instruments, appointments, decisions or omissions; (b) the government body or officeholder concerned; (c) the legal basis of the alleged invalidity or unlawfulness; (d) the common questions said to arise; (e) the relief sought for the represented class; and (f) any issues unique to the Applicant.
6. The Court give directions for notice to proposed represented persons and affected governmental bodies, including the form, method and timing of notice, and whether any represented person may opt out, apply to be joined, or seek separate representation.
7. The Court reserve liberty to vary the class definition, appoint another representative, create subclasses, direct joinder, or discontinue the representative aspect of the proceeding if the same-interest requirement is not satisfied or representation would otherwise be unjust or impracticable.
8. The representative-proceeding question be listed with the Applicant's application to restore, reopen or further list HCMP 1855 of 2022, or at such later directions hearing as the Court considers appropriate.
9. Costs of the representative-proceeding application be reserved.

B. PROPOSED ADDITIONAL GROUNDS

10. Order 15, rule 12 permits one or more persons to sue or be sued, or to be authorised by the Court to defend, as representing all persons having the same interest in the proceeding, subject to the Court's control.
11. The proposed representative order is sought because the Applicant contends that the identified citizens are affected by a common legal and factual matrix and seek materially common relief concerning the legality and validity of the governmental acts and arrangements impugned in HCMP 1855 of 2022.

12. The Applicant contends that the proposed common questions include whether the impugned acts or governmental arrangements were lawfully authorised, whether public powers were exercised according to law, whether relevant public records must be preserved and produced, and what declaratory or consequential relief follows if invalidity or unlawfulness is established.
13. The Applicant recognises that representative status cannot be established merely by describing a large group as 'the citizens of Australia'. The class must be defined by a common legal interest in the particular claims and relief before the Court.
14. The Applicant therefore seeks provisional representative directions, together with leave to refine the class definition and common questions after inspection of the Court file, identification of the impugned acts and record-holders, and directions as to service and evidence.
15. The representative procedure is sought to avoid multiplicity of proceedings, promote consistent determination of common questions, preserve relevant records and facilitate proportionate case management.
16. The Applicant does not rely upon representative procedure to avoid requirements concerning jurisdiction, standing, service, foreign-state or governmental immunity, justiciability, pleading, proof, or the identification of a legally cognizable cause of action. Those matters remain for determination by the Court.

C. WORDING FOR THE NOTICE OF INTENTION TO PROCEED

The Notice of Intention to Proceed may identify the intended next step as follows:

"After the expiration of one calendar week from service of this Notice, the Applicant intends to proceed by lodging and seeking the filing and hearing of the Summons / Interlocutory Application dated 15 June 2026, including an application for directions under Order 15, rule 12 that HCMP 1855 of 2022 continue, to the extent permitted by the Court, as a representative proceeding on behalf of a properly defined class of Australian citizens having the same interest in the common questions and relief pleaded."

D. DRAFT SHORT FORM ORDER

Upon hearing the Applicant and upon reading the filed evidence, IT IS ORDERED that:

17. The issue whether HCMP 1855 of 2022 may continue as a representative proceeding under Order 15, rule 12 be set down for determination at a directions hearing.
18. Within 21 days, the Applicant file a proposed class definition, schedule of common questions, concise statement of the representative claim, and draft notice to proposed represented persons.
19. No final declaration concerning the validity or lawfulness of any Australian government or governmental institution be determined before further order.
20. Further consideration of representative status, notice, service, joinder and case management be reserved to the directions hearing.

Dated the 15th day of July 2026.

Signed:

Name:

Capacity:

Andrew Morton Garrett

Applicant in person

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Unit 3 / 11 Harvey Street,
Nailsworth, South Australia 5083, Australia

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PERSONS ON WHOM THIS NOTICE IS TO BE SERVED

To: All parties concerned and all persons or bodies previously served with, or formally notified of, the originating process in HCMP 1855 of 2022 and HCAL-1179-2026 as identified in the First Second and Third Schedules of the Form 86 Order 53 Application for Leave, care of The Department of Prime Minister and Cabinet.

SCHEDULE OF SERVICE

See Form 86 Order 53 attached: Where the Court directs that no service is required because the proceeding remains ex parte, this Schedule may instead identify the persons placed on notice and record that service is subject to the Court's directions.