

立法會
Legislative Council

LC Paper No. CB(2)1248/02-03
(These minutes have been
seen by the Administration)

Ref : CB2/PL/AJLS

Panel on Administration of Justice and Legal Services

**Minutes of meeting
held on Monday, 27 January 2003 at 4:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon Jasper TSANG Yok-sing, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon CHAN Kam-lam, JP
Hon Miriam LAU Kin-yee, JP
Hon Mr Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon Albert HO Chun-yan
Hon Martin LEE Chu-ming, SC, JP
- Public officers attending** : Item IV
Mr Wilfred TSUI
Judiciary Administrator

Mr Augustine L S CHENG
Deputy Judiciary Administrator (Operations)

Mr C W TSANG
Chief Judiciary Executive (Court Orders)

Item V

Ms Rebecca PUN
Assistant Judiciary Administrator (Development)

Members of Steering Committee on the Pilot Scheme
for the Reform of Ancillary Relief Procedures

Mr Robin EGERTON
Ms Bebe P Y CHU
Ms Corinne D' A REMEDIOS
Ms Anita H K YIP

Item VI

Mr Stephen WONG
Deputy Solicitor General

Mr Michael SCOTT
Senior Assistant Solicitor General

Ms Agnes CHEUNG
Senior Government Council
Legal Policy Division

Attendance by invitation : The Law Society of Hong Kong

Item V

Mr Stephen LEUNG
Mr Dennis HO

Item VI

Mr Vincent LIANG
Mr Peter HUNG

Clerk in attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Miss Kitty CHENG
Assistant Legal Adviser 5

Mr Stanley MA
Senior Assistant Secretary (2)6

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I. Confirmation of minutes of meetings

(LC Paper Nos. CB(2)968/02-03 and CB(2)1011/02-03)

The minutes of the meetings held on 25 November and 13 December 2002 were confirmed.

II. Information papers issued since the last meeting

2. Members noted the following papers which had been issued -

- (a) LC Paper Nos. CB(2)748/02-03(01) - (02) - Legal Practitioners (Risk Management Education) Rules and Admission and Registration (Amendment) (No.2) Rules 2002, which were gazetted on 27 December 2002;
- (b) LC Paper No.CB(2)761/02-03(01) - Extract of Civil Service Bureau Circular No. 19/92 on prevention of conflict of interest which may arise between an officer's duty and his private interest; and
- (c) LC Paper No.CB(2)761/02-03(02) - Two charts setting out the experience of fiat counsel on Magistrates Courts "A" and "B" lists.

III. Items for discussion at future meetings

(LC Paper Nos. CB(2)1014/02-03(01) - (02) and CB(2)1034/02-03(01))

Items for discussion at the next meeting on 24 February 2003

3. The Chairman drew members' attention to the response of the Department of Justice (D of J) to the Ming Pao Article entitled "律政司減外判省開支" (LC Paper No.CB(2)1034/02-03(02)). Members noted that

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arising from the Government's target to reduce projected spending of \$220 billion in the operating accounts in 2006-07 by \$20 billion, all bureaux and departments, including the Judiciary and D of J, would have to make a significant reduction in expenditure by 2006-07. Members agreed that the Judiciary Administration and D of J should be invited to brief the Panel on their cost-saving proposals to achieve the target and the implications of these proposals on the system of administration of justice. Ms Emily LAU also suggested that the Administration should be requested to provide information on the directorate establishment and the terms of employment of the directorate posts of the Judiciary and D of J.

4. Members agreed to discuss the following items at the next regular meeting on 24 February 2003 at 4:30 pm -

- (a) Operation of Legal Aid Services Council; and
- (b) Implications of cost-saving proposals of the Government and Judiciary on the system of administration of justice.

(Post-meeting note : At the request of the Legal Aid Services Council and with the agreement of the Chairman, item (a) was deferred to the regular meeting in March 2003.)

Items for discussion at future meetings

Government's policy on implementation of resolutions and conventions made by the United Nations
(LC Paper No. CB(2)734/02-03(01))

5. Members noted the Administration's paper which clarified the Government's policy regarding measures to give effect to United Nations resolutions and conventions.

6. Members agreed to include the item in the list of outstanding items for discussion by the Panel.

Review and amendment of section 18(3) of the Hong Kong Court of Final Appeal Ordinance
(LC Paper No. CB(2)1014/02-03(03))

7. The Chairman referred members to Mr CHAN Siu-lun's letter of 1 December 2002 requesting the Panel to discuss the issue of "Review and amendment of section 18(3) of the Court of Final Appeal (CFA) Ordinance to restore the judicial avenue to vary, re-open or set aside the decision made by the Appeal Committee (AC)". The Chairman briefly recapped the follow-up actions taken by the Panel in relation to similar requests made by

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Mr CHAN in the past, as highlighted in the background brief prepared by the Legislative Council (LegCo) Secretariat. The Chairman then sought the view of the Panel on whether the issue should be further discussed by the Panel as requested by Mr CHAN.

8. Mr TSANG Yok-shing was of the view that unless Mr CHAN had provided new information in his latest submission, further discussion of the same issue by the Panel would be a waste of time. Ms Audrey EU said that it was the general legal policy principle that there should be finality in legal proceedings. She pointed out that CFA comprised five judges including the Chief Justice, and AC comprised three judges including the Chief Justice. The decision of AC would represent in effect the majority view of CFA. She was of the view that it was not worthwhile for the Panel to discuss the issue again. The Chairman and Mr James TO concurred with Ms EU's view. Mr TAM Yiu-chung and Ms Emily LAU said that they had no particular view on the matter.

9. The Chairman suggested and members agreed that the Clerk should write to seek the written response of the Director of Administration to Mr CHAN's latest submission, in the light of any new information provided by him. The Panel would decide on the way forward after considering the response of the Director of Administration.

Other issues

10. Members noted the following papers provided by the Administration

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- (a) LC Paper No. CB(2)733/02-03(01) - Enforcement of arbitral awards between Hong Kong and Macau; and
- (b) LC Paper No. CB(2)992/02-03(01) - Use of official languages for conducting court proceedings.

IV. Bailiff grade

(LC Paper Nos. CB(2)1013/02-03(01) - (02), CB(2)1039/02-03(01) to (02) and CB(2)1044/02-03(01) - (02))

11. The Chairman referred members to the letter dated 24 January 2003 from the Bailiff Grade Union (LC Paper No. CB(2)1044/02-03(02)) advising that the Union was working with the management in resolving the problems encountered by the Bailiffs and would not send any representatives to the meeting.

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12. The Chairman also referred members to the organisation chart of the Court Orders Section (LC Paper No. CB(2)1039/02-03(01)), structure and strength of the Bailiff Grade (LC Paper No. CB(2)1039/02-03(02)), and the list of duties of Bailiffs (LC Paper No. CB(2)1044/02-03(01)), in addition to the paper (LC Paper No. CB(2)1013/02-03(01)) provided by the Judiciary Administration.

13. At the Chairman's invitation, Judiciary Administrator (JA) briefed members on the work of Bailiffs as detailed in the paper. Senior Assistant Legal Adviser also briefed members on the nature of the three types of court orders (Writs of Possession, Writs of Fieri Facias and Warrants of Distress) executed by Bailiffs as referred to in the paper.

Performance of Bailiff service

14. Referring to the Appendix to the Judiciary Administration's paper (the Appendix) and the Chief Secretary for Administration's reply to Mr Andrew CHENG's question raised at the Council meeting on 11 December 2002 (LC Paper No. CB(2)1013/02-03(02)), Ms Audrey EU said that the average monthly caseload in 2000-2002 provided in the Appendix did not accurately reflect the workload of Bailiffs. She pointed out that the average monthly caseload only referred to the execution of Warrants of Distress, Writs of Possession, Writs of Fieri Facis and others, and did not provide the number of attempts made in executing these court orders. In addition, the caseload did not include service of summonses and legal documents. Ms EU cautioned that the recent proposal of the Secretary for Housing, Planning and Lands to relax tenancy control for private rental housing would further increase the demand for Bailiff service. She expressed concern about the manpower of the Bailiff Grade to cope with the workload, especially at a time when the Government had to reduce its expenditure to cope with budgetary constraints. To illustrate the performance of Bailiff service, Ms EU requested JA to provide the number of attempts made in executing court orders, the number of summonses and legal documents served, and the number of attempts made in serving these documents.

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15. JA said that following a review, the Court Orders Section had re-engineered the process of work assignment. Under the new arrangement, which was implemented in July 2002, each Bailiff was responsible for the planning and execution of the whole process of an enforcement order. Under the previous arrangement, tasks were assigned by the Senior Bailiff and different Bailiffs might be involved in the same case. The new arrangement had considerably improved the efficiency and morale of Bailiffs, resulting in an increase in the number of executed court orders and improvements in the average waiting time for execution of court orders.

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16. While Ms Audrey EU noted that the average waiting time for execution of the three main types of court orders had improved in December 2002 vis-à-vis the same month in 2000 and 2001, she expressed concern about the number of court orders, particularly the Writs of Possession, which had exceeded the average waiting time for execution. She said that as far as she could recall, the information provided by the Administration to the Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2001 was that less than 50% of the Writs of Possession could meet the target time for execution, i.e. 14 days.

17. JA responded that as an on-going exercise, the Judiciary Administration would continue to keep in view of legislative amendments having an impact on the work of Bailiffs and adopt appropriate measures to cope with any increase in workload. Overall speaking, the existing Bailiff workforce had been able to meet the average waiting time for execution of the three main categories of court orders as tabulated in the Appendix. He added that the actual waiting time for execution would depend on the circumstances of individual cases.

18. Chief Judiciary Executive (Court Orders) supplemented that while 37 Bailiffs were responsible for execution of the three main types of court orders, another 46 Bailiff Assistants were provided for serving summonses and other important legal documents on parties as required by a court (including tribunals) or as requested by either party to a litigation. He pointed out that the average waiting time for execution of court orders had taken into account the total number of cases handled by the four regional operating units, and the actual waiting time in individual cases was in the range of 10 to 16 days. In fact, the average waiting time had been shortened following implementation of the new arrangement for assignment of work in July 2002. In response to Ms Audrey EU's request, he undertook to provide a breakdown of court orders, by categories, which fell within and outside the respective waiting time for execution as indicated in the Appendix.

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19. Mr James TO and Ms Miriam LAU were pleased to note the improvements in the performance of the Bailiff service. Mr TO considered that the new process for assignment of work to Bailiffs was acceptable. Ms LAU said that it was encouraging to note that the average waiting time for the execution of Warrants of Distress had been reduced from 16 days in December 2001 to 7 days in December 2002. She hoped that the increase of the average waiting time from 11 days in December 2000 to 16 in December 2001 would not be repeated in the future. JA explained that the increase in the average waiting time in December 2001 was due to a significant turnover of Bailiffs between 2000 and 2001 (from 42 to 36). The improvement in 2002 was largely a result of implementing the new system for assignment of work since July 2002.

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20. Ms Audrey EU asked whether all requests for Bailiff service were processed under the same queuing system, regardless of whether the request was made by a member of the public or a legal practitioner acting on behalf of a judgment creditor. JA responded in the affirmative.

Protection of Bailiffs in execution of court orders and judgments

21. Ms Emily LAU asked whether the problems encountered by Bailiffs in execution of Writs of Fieri Facias and Warrants of Distress, which involved seizure of the judgment debtors' goods and chattels in satisfaction of the judgment debt, could be addressed by the proposed guidelines and gazetting of the appointments of Bailiffs, in the absence of legislation to reinforce protection of Bailiffs in the course of executing their duties.

22. JA responded that the management of the Bailiff Grade was working with the Grade with a view to resolving the problems encountered by Bailiffs and was confident that their concerns would be addressed. He added that the Judiciary Administration did not envisage that legislating on such matters would afford Bailiffs any greater protection than that currently available under the common law.

23. The Chairman considered it essential that Bailiffs who executed court orders and judgements in good faith should be protected from the risk of being held liable to action for damages arising from wrongful seizures or breach of duties. She pointed out that a Bailiff would often face the difficult situation in which the judgment debtor denied ownership of certain goods on his premises, or a third party might claim ownership of those goods and chattels. She expressed support for a set of detailed guidelines to be prepared as soon as possible for the Bailiffs.

24. Mr James TO said that the common law defence cited in the Suffiad's judgement in *Fu Lok Man James v Chief Bailiff of the High Court [1998]* was that the Bailiff should be protected from an action for damage if he had made an honest mistake in execution of a court order which had caused no "real grievance" or "substantial grievance" to a claimant beyond the mere entry and seizure of the goods. He pointed out that the terms "honest mistake", "real grievance" and "substantiated grievance" were unclear. He was of the view that a protection order should be made for the Bailiff if he made an honest mistake in good faith. Mr TO expressed reservations about the common law protection available to Bailiffs and suggested that express statutory provisions should be provided instead.

25. JA pointed out that the same terms would likely be used if statutory provisions were introduced to protect Bailiffs. He reiterated that the Judiciary Administration did not envisage that legislation would afford

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Bailiffs any greater protection than that currently available under the common law.

26. Ms Miriam LAU considered that in addition to the provision of a set of guidelines and regular experience sharing sessions, the Administration should put in place a mechanism to provide instant support to front-line Bailiffs encountering unusual situations in the course of enforcing a court order.

27. JA acknowledged that a Bailiff would often encounter situations which were too difficult for him to handle independently. In such circumstances, the Bailiff could make use of the mobile phone provided by the management to seek advice from a Senior Bailiff. In case of need, the Senior Bailiff would go to back up the Bailiff on the spot in executing a court order. He added that the regular experience sharing sessions would enable the establishment of benchmark practices for the Bailiffs to follow. The management of the Bailiff Grade would consult staff and monitor the development of good practices on a regular basis.

28. Mr TAM Yiu-chung questioned the need for gazetting the appointments of Bailiffs for the purpose of establishing their legal authority and status. Mr TAM pointed out that a public officer could always show his staff card to prove his identity. He asked how often were Bailiffs challenged by the defendants in the course of executing court orders and judgments.

29. JA said that according to legal advice, notwithstanding the absence of statutory requirements for gazetting the appointments of Bailiffs, the gazettal might provide prima facie evidence of such appointments. Since gazetting the appointment of Bailiffs could boost the confidence of Bailiffs in their performance of duties, the Judiciary Administration had agreed to consider. Having said that, JA stressed that most members of the public would abide by the law. When being challenged by a defendant, a Bailiff would explain their duties and authority in a sincere and rational manner. If the defendant was not convinced, the Bailiff could seek the assistance of the Police for the execution of a court order and judgment. In the longer term, the Judiciary Administration considered it more important to take various measures to develop the ability of Bailiffs to cope with different situations.

30. Ms Audrey EU opined that the guidelines should incorporate information such as evaluations of judgment debtors' goods and chattels, and the differences between an honest mistake and a breach of duties due to negligence in a legal context. She considered that Bailiffs should be aware of their legal responsibilities and be accountable to the public in their performance of duties. The Chairman requested JA to take into account

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Admin Ms EU's views in preparing the guidelines.

Way forward

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V. Pilot Scheme for the Reform of Ancillary Relief Procedures in Matrimonial Proceedings

(LC Paper No. CB(2)996/02-03(01))

32. The Chairman welcomed representatives of the Judiciary Administration, Members of the Steering Committee on the Pilot Scheme for the Reform of Ancillary Relief Procedures and the Law Society of Hong Kong to the meeting.

33. At the Chairman's invitation, Assistant Judiciary Administrator (AJA) briefed members on the salient points of the Administration's paper on the subject.

Overseas experience

34. Ms Miriam LAU expressed support for simplifying the existing ancillary relief procedures with an emphasis on promoting a culture of settlement and reducing the legal costs incurred. She considered that the establishment of a culture of settlement was considerably better than the adoption of an antagonistic approach by both parties in ancillary relief proceedings which would often prolong the emotional trauma of divorce and lead to dissipation of family assets in costs. Noting that a number of common law jurisdictions had instituted reforms in their ancillary relief proceedings, Ms LAU enquired about the results of such reforms.

35. AJA responded that Australia and New Zealand had instituted far-reaching reforms over the past 15 years. In England and Wales, an ad hoc group was set up under the chairmanship of Lord Justice Thorpe in 1992 to examine possible reforms. The group subsequently recommended a new set of procedures for ancillary relief proceedings and the Lord Chancellor decided to pilot the new procedures in a limited number of courts in 1996. According to an assessment conducted by KPMG, independent consultants,

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there was significant evidence that the overall length of cases was being reduced and there was some evidence that settlement rates were increasing. The legal profession was in support of the pilot scheme in that it not only simplified and rationalised proceedings, but also promoted a culture of settlement which took much of the sting out of the traditional adversarial process. As a result, the Lord Chancellor directed that the scheme be extended to all the courts of England and Wales, which was implemented through the Family Proceedings (Amendment No.2) Rules, which came into force in June 2000.

36. AJA added that in November 1999, the Chief Justice had appointed a Working Group to consider the reform of the local ancillary relief procedures with a view to making them quicker, cheaper, less adversarial and more conducive to a culture of settlement. In the course of their deliberations of the available options, the Chairman and the Judiciary members of the Working Group had visited the relevant jurisdictions i.e. England, Australia and New Zealand and exchanged views with their fellow judges and legal experts in the area.

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37. Referring to the English pilot scheme, Ms Miriam LAU requested the Administration to provide statistics to illustrate the findings of KPMG that the "overall length of case was being reduced" and the "settlement rates were increasing". AJA undertook to provide the relevant information after the meeting.

The pilot scheme

38. In response to Ms Miriam LAU on how the pilot scheme could reduce unnecessary costs and delay, AJA said that under the proposed three-phased reformed ancillary relief procedures, the First Appointment would be presided over by the judge, who would define the issues and give directions to ensure that the matter proceeded to resolution economically and with a minimum of delay. If settlement could not be reached at the Financial Dispute Resolution (FDR) Hearing presided over by the same judge, the matter would be set down for trial (final hearing) before another judge.

39. Ms Audrey EU asked whether the usual appeal mechanism would apply in the ancillary relief proceedings in case either party considered that the issues defined and the directions given by the judge at the FDR Hearing were unacceptable.

40. Mr Robin EGERTON responded that at the FDR hearing, the judge would play the role of a 'facilitator', assisting the parties and their legal representatives, if any, to try to reach a settlement rather than imposing any decisions on the ancillary disputes. If a settlement was reached, the usual procedure for a consent summons to be put before the court for approval

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would follow. If a settlement was not reached, the matter would be set down for trial before another judge. It was therefore unlikely that either party would need to appeal against any decision of the presiding judge at the FDR Hearing.

41. Ms Audrey EU pointed out that one of the objectives of putting an appeal mechanism in place was to limit the scope of the discovery of documents, which could be a very lengthy and complex process. Mr Robin EGERTON responded that either party or both parties could raise the issues in relation to the discovery of documents in the form of Questionnaires or further Affidavits of Means and Replies at the First Appointment. The subsequent FDR Hearing would not deal with the discovery of documents.

Amendments to the Matrimonial Causes Rules

42. Ms Audrey EU asked whether the proposed amendments to the Matrimonial Causes Rules (paragraphs 53 and 54 of the paper refer) were modelled on the English pilot scheme.

43. AJA responded that the English pilot scheme was initially governed by the Practice Direction issued by the President of the Family Court with the concurrence of the Lord Chancellor. Amendments were made to the Family Proceedings Rules in 1999 when it was decided that the scheme should be extended to all the courts of England and Wales. The pilot scheme recommended by the Working Group concerned primarily matters of procedure at the Family Court. Its implementation would be governed by a Practice Direction to be issued by the Chief Justice. However, the Working Group considered that to facilitate implementation, certain existing Matrimonial Causes Rules should be set to one side. Since implementation of the English pilot scheme did not require the Rules to be suspended, Ms Audrey EU requested the Administration to explain the need for amending the Matrimonial Causes Rules when the Amendment Rules were submitted to LegCo for scrutiny.

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Consultation and publicity

44. Ms Audrey EU asked about the timetable for implementation of the two-year pilot scheme to test the effectiveness of the reformed ancillary relief procedures proposed by the Working Group.

45. AJA responded that after seeking the approval of the Chief Justice on the Amendment Rules, the Rules would be submitted to LegCo for negative vetting. The Judiciary Administration proposed to implement the pilot scheme in mid-2003.

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46. The Chairman and Ms Emily LAU enquired whether the Administration had conducted any consultation with the relevant parties such as members of the legal profession, concerned groups and women groups on the implementation of the pilot scheme.

47. Mr Dennis HO of the Law Society of Hong Kong said that the Family Law Committee of the Law Society was in support of the recommendations of the Working Group to implement a two-year pilot scheme to test the effectiveness of the new procedural framework. Responding to the Chairman, he confirmed that individual members of the Law Society had yet to be consulted on the pilot scheme.

48. Ms Corine REMEDIOS said that she had informed the Hong Kong Bar Association of the work of the Working Group. The Bar Association, through its special committee, was well aware of the recommendations of the Working Group and the main features of the pilot scheme.

49. Ms Bebe CHU supplemented that apart from representatives of the Hong Kong Bar Association and the Law Society of Hong Kong, the Working Group comprised representatives from the Hong Kong Family Law Association and the Legal Aid Department. She added that the Chairman of the ad hoc group in England and Wales, Lord Justice Thorpe, had visited Hong Kong in June 2002 and briefed members of the Law Society and the Bar Association and other interested parties on the English pilot scheme at a series of meetings. She stressed that no opposing views had been expressed at those meetings. AJA added that Lord Justice Thorpe had come to Hong Kong at the invitation of the Judiciary to conduct training on the English pilot scheme for the Family Court Judges.

50. Mr Robin EGERTON said that there were psychiatrists, psychologists and social welfare workers on the membership of the Hong Kong Family Law Association. These non-lawyer members in general supported the proposed new procedural framework for resolving ancillary relief disputes and the implementation of a pilot scheme.

51. Ms Emily LAU said that the Administration should consider whether further consultation with the relevant parties, especially the women groups, should be conducted before the implementation of the pilot scheme. The outcome of the consultation exercise should be reported to the Panel for information.

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52. In concluding the discussion, the Chairman said that the majority of the Panel members supported the aims of the pilot scheme, although some members might have doubts about certain aspects of the reformed ancillary relief procedures. Having said that, she reckoned that the purpose of the pilot scheme was to test the effectiveness of the proposed new procedural

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framework. However, she considered the Administration's plan to implement the pilot scheme in mid-2003 too optimistic. She suggested that the Administration should start the necessary publicity work and consultation as soon as possible, pending submission of the Amendment Rules to LegCo.

53. In response to the Chairman on the resources implications, AJA said that any additional costs arising from the implementation of the pilot scheme were intended to be absorbed within existing resources. The matter would be kept under constant review.

VI. Law Amendment and Reform (Miscellaneous Provisions) Bill
(LC Paper Nos. CB(2)998/02-03(02), CB(2)999/02-03(01) - (02) and
CB(2)1042/02-03(01))

Provisions relating to proof of title and presumptions of due execution of deed by corporation in the Conveyancing and Property Ordinance (Cap. 219)

54. Deputy Solicitor General (DSG) said that a revised section 23A of Cap. 219 (Part 3 of the Bill) had been tabled at the meeting.

55. In response to the Chairman, Mr Vincent LIANG confirmed that the Law Society of Hong Kong had agreed in principle to accept the latest version of Part 3 of the Bill, on the understanding that D of J would further refine the provisions where necessary. Mr Peter HUNG supplemented that the revised version had taken into account the views and suggestions of the Law Society.

(Post-meeting note : The revised Part 3 of the Bill was issued to members vide LC Paper No. CB(2) 1063/02-03(01) after the meeting. This paper superseded LC Paper No. CB(2)999/02-03(01) issued on 22 January 2003.)

Provisions relating to the Legal Practitioners Ordinance (Cap. 159)

56. DSG said that the Administration had provided a paper to respond to issues raised by members at the last meeting concerning the proposed amendment to new section 9AA of the Legal Practitioners Ordinance (LC Paper No. CB(2) 999/02-03(02)). The proposed amendment would result in bringing any non-solicitor director appointed under the draft Solicitor Corporation Rules within the disciplinary authority of the Law Society.

Proposed amendments to the Cost in Criminal Cases Ordinance (Cap. 492)

57. DSG said that the Administration had provided a paper to address a number of issues raised by members at the last meeting, namely, the scope of

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the provisions on wasted costs in section 18 of the Ordinance, the time limit stipulated under Rule 6 of the Costs in Criminal Cases Rules, and the policy on costs (LC Paper No. CB(2) 998/02-03(03)).

Way forward

58. DSG said that the Administration aimed to introduce the Bill into LegCo on 19 March 2003.

59. Ms Miriam LAU stressed that the Bill should be enacted as soon as practicable since many property transactions had been held up due to the problem in proving due execution of conveyancing documents by corporations.

60. The Chairman pointed out that the proposed amendment to new section 9AA of the Legal Practitioners Ordinance should not be introduced into LegCo before the Solicitor Corporations Rules were made. She said that the rest of the proposals included in the Bill were either not controversial or had been properly settled such as the provisions relating to the Conveyancing and Property Ordinance. She suggested that the proposed amendment to new section 9AA of the Legal Practitioners Ordinance, which might require further scrutiny by a bills committee, should be taken out from the Bill so as not to delay the enactment of the Bill. Ms Miriam LAU expressed support for the Chairman's suggestion.

61. DSG said that the proposal was included in the Bill at the request of the Law Society. He undertook to follow up the matter with the Law Society.

(Post-meeting note : Subsequent to a meeting between the Chairman and representatives of the Law Society, the Administration provided a position paper which was issued vide LC Paper No. CB(2)1187/02-03 on 17 February 2003.)

VII. Any other business

Visit to the Judiciary and the Technology Court

62. The Chairman expressed appreciation of the arrangements made by the Judiciary Administration for the Panel visit to the Judiciary on 20 January 2003. She said that Members participating in the visit were impressed by the modern technological facilities of the Technology Court, which would soon be operational. Due to time constraints on the day of the visit, she considered that it might be worthwhile for the Panel to conduct a further visit to the Court. She requested the Clerk to issue a circular to ascertain whether Members, especially those Members who were unable to join the visit on 20 January 2003, were interested in joining the visit. If the response was favourable, the Clerk

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would follow up the matter with the Judiciary Administration.

Referral from the Bills Committee on the Juvenile Offenders (Amendment) Bill 2001

63. The Chairman said that at the meeting of the Bills Committee on Juvenile Offenders (Amendment) Bill 2001 on 22 January 2003, it was suggested that the Panel should discuss whether the present juvenile court proceedings could be improved. To facilitate discussion and to familiarise members with the existing operation, she suggested that the Panel should visit the Juvenile Courts and discuss with the judges on the operation of the Juvenile Courts. Members agreed.

Proposed research studies

64. The Chairman suggested and members agreed that to facilitate future discussions on the budgetary arrangements for the Judiciary and the proceedings of Juvenile Courts, the Panel should request the Research and Library Services Division to conduct the following research studies –

- (a) Budgetary arrangements for overseas judiciaries; and
- (b) Operation of Juvenile Courts in overseas countries.

65. There being no other business, the meeting ended at 6:45 pm.

Council Business Division 2
Legislative Council Secretariat
21 February 2003