

LEGCO QUESTION NO. 8

(Written Reply)

LC Paper No. CB(2)1013 /02-03(02)

Asked by : Hon Andrew CHENG

Date of meeting : 11 December 2002

Replied by :

Chief Secretary
for Administration

Question [translation]:

Regarding the execution of court orders by bailiffs, will the Government inform this Council :

- (a) of the number of occasions on which bailiffs executed court orders, the types of execution orders and the success rate in the past two years;
- (b) of the mechanism in place to monitor the work of bailiffs; and whether it has assessed the effectiveness of their work; if so, of the assessment results; if not, the reasons for that; and
- (c) whether it has considered if it is necessary to amend the existing legislation and measures so as to increase bailiffs' powers and the success rate of their execution of court orders; if it has not, the reasons for that?

Reply:

Madam President,

We have consulted the Judiciary on the question and have received the following information and response: -

(a) The numbers of attempts made by bailiffs in executing court orders for the past two years and the relevant success rates are as follows:

	Year 2000		Year 2001	
	Attempts	Success Rates	Attempts	Success Rates
Warrant of Distress	8550	30%	8011	27%
Writ of Fieri Facias, Magistrates' Warrants and others	13675	14%	11234	15%
Writ of Possession	15560	98%	13497	98%

In the cases of warrant of distress and writ of fieri facias, the execution is successful where there are sufficient goods and chattels on the premises to justify a seizure, or if the judgment debtors settle the debt on the spot. If the defendants are penniless, or have left on the premises goods and chattels of no value or insufficient value to cover the execution expenses, or their whereabouts are unknown, the execution is classified as not successful.

(b) The performance of bailiffs is monitored both internally within the Judiciary and externally by judgment creditors and landlords.

In the Judiciary Administration, senior bailiffs are responsible for monitoring the daily performance of bailiffs. Regular reports on the performance of the bailiffs service is submitted to the management of the Judiciary Administration for review and monitoring.

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As regards external monitoring, judgment creditors and landlords are encouraged to accompany bailiffs in executing court orders. About 70% of the execution work is done in the presence of the judgment creditors or landlords who would have an interest in ensuring that the court orders are being carried out satisfactorily.

(c) The authority of the bailiffs service is derived from section 38A of the High Court Ordinance (Cap. 4). The section already provides for bailiffs to effect orders for committal and for service and execution of the process of the Court, in accordance with rules of court. Obstruction to the discharge of duties by bailiffs is contempt of court and shall be liable on summary conviction to a fine at level 5 and to imprisonment for 12 months; or on conviction on indictment to imprisonment for 2 years.

As noted in part (a) of the reply above, the execution of court orders by bailiffs is considered not successful if the defendants are penniless, or have left on the premises goods and chattels of no value or insufficient value to cover the execution expenses or their whereabouts are unknown. The Judiciary considers that the success rate of execution of court orders may not be enhanced by amending the existing legislation and measures to increase bailiff's powers, and has no plan to so propose.

