

**Extract from minutes of special meeting on  
Panel on Administration of Justice and Legal Services on 17 October 2005**

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*Work of the Law Drafting Division of DOJ*

11. Ms Emily LAU noted from paragraph 8 of SJ's speaking note that DOJ had made every effort in establishing a good working relationship with the Legislature by facilitating scrutiny of bills by LegCo. Ms LAU also noted that SJ had quoted the Statute Law (Miscellaneous Provision) Bill 2005 to demonstrate the cooperation between DOJ and LegCo in expediting scrutiny of bills. Ms LAU pointed out that scrutiny of bills was not always conducted as smoothly as that of the Statute Law (Miscellaneous Provision) Bill 2005. She urged the Administration as a whole to improve its relationship with the Legislature by undertaking better preparation work and public consultation on the policies involved before introducing bills into LegCo so as to minimise dissenting views and facilitate the legislative process.

12. Ms LAU also noted from paragraph 9 of SJ's speaking note that measures were put in place to enhance the law drafting skills of law draftsmen through an in-house mentorship programme, and to broaden the exposure of draftsmen through short-term attachments. Ms LAU asked whether the law draftsmen had encountered problems in law drafting, and whether the measures were sufficient and effective in enhancing the drafting skills of law draftsmen.

13. SJ responded that the issue of improvement in relationship between the Executive and the Legislature should be addressed by CE. She would continue to cooperate with Members in the work of DOJ. SJ added that the Administration appreciated the onerous burden placed on LegCo Members in scrutinising bills and that Members had scrutinised bills with scrupulous care. To facilitate scrutiny of bills, government bureaux and departments would consult LegCo on the legislative proposals first before introducing bills to LegCo. SJ assured members that DOJ staff would continue their efforts in facilitating the legislative process and in improving DOJ's relationship with the Legislature by getting themselves prepared when attending LegCo committee meetings, and be receptive and responsive to Members' suggestions.

14. As regards the measures to enhance the drafting skills of law draftsmen, SJ informed members that the drafting work of law draftsmen had all along been overseen by their supervisors. Recently, an in-house mentorship programme had been introduced to assign one directorate counsel to oversee the work of two or three non-directorate counsel. Two short-term attachments to Canada and the United Kingdom had been organised for law draftsmen. The attachment programmes would continue or even extended to Australia, if their effectiveness was proven after review. SJ explained that the above-mentioned measures had been implemented because DOJ

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should always strive to improve the drafting work of its staff, and not because of any specific problem identified.

15. SJ added that recruitment of law draftsmen and other grades in the civil service had been frozen for several years. The drafting of several complicated and voluminous bills in the past few years, such as the Securities and Futures Bill, had added pressure on the work of the Law Drafting Division. SJ informed members that additional law draftsman posts had been approved and new law draftsmen would be recruited this year. It was hoped that the work of the Division would be facilitated with the additional manpower.

16. The Chairman opined that DOJ could help relieve some of the pressure of members in scrutinising bills as well as help improve the standard of law drafting. She explained that problems usually arose during scrutiny of bills if there was not sufficient discussion on the relevant policies beforehand. The Chairman suggested that if it had come to the attention of law draftsmen during the drafting stage that the bureaux concerned had not consulted the relevant LegCo Panels on the policies involved, they should remind the bureaux concerned to do so.

17. The Chairman also suggested that law draftsmen should exchange their drafting experience with their counterparts in other jurisdictions so as to update their knowledge in legislative drafting. Arrangements could also be made for law draftsmen and local court users, such as the two legal professional bodies and legal practitioners, to discuss relevant issues such as law drafting styles.

18. In response, Solicitor General (SG) explained that different divisions in DOJ contributed to the law drafting process. Both the Civil Division and Legal Policy Division were involved before the drafting stage. The Civil Division advised on the preparation of drafting instructions in respect of new legislation or amendment to existing legislation so as to achieve policy intent of the policy bureaux. The Legal Policy Division ensured that the draft legislation was consistent with the provisions in the Basic Law and the Hong Kong Bill of Rights Ordinance (Cap. 29).

19. The Chairman suggested that the subject of the work of the Law Drafting Division should be included in the Panel's list of outstanding items for discussion at a future meeting. Members agreed.

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