

立法會
Legislative Council

Ref : CB2/BC/7/06

LC Paper No. CB(2)1998/06-07
(These minutes have been seen by
the Administration)

**Bills Committee on
Civil Justice (Miscellaneous Amendments) Bill 2007**

**Minutes of meeting
held on Tuesday, 15 May 2007, at 10:45 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Margaret NG (Chairman)
Hon James TO Kun-sun
Hon LI Kwok-ying, MH, JP
Hon Ronny TONG Ka-wah, SC

Public Officers attending : **Judiciary Administration**

Miss Emma LAU
Judiciary Administrator

Miss Annie TANG
Deputy Judiciary Administrator (Development)

Miss Vega WONG
Assistant Judiciary Administrator (Development)

The Administration

*Administration Wing, Chief Secretary for
Administration's Office*

Mrs Alice CHEUNG
Assistant Director of Administration

Department of Justice

Mr K F CHENG
Senior Assistant Law Draftsman

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

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Ms Amy YU
Senior Council Secretary (2) 3

Action

I. Election of Chairman

Ms Margaret NG was elected Chairman of the Bills Committee.

II. Meeting with the Administration

(LC Paper No. CB(3)452/06-07 - The Bill

CSO/ADM CR 4/3221/04 - Legislative Council Brief

LS62/06-07 - Legal Service Division Report on the Bill

LC Paper No. CB(2)1836/06-07(01) - Marked-up copy of the Bill prepared by the Legal Service Division

LC Paper No. CB(2)1837/06-07(02) - Background brief prepared by the Legislative Council Secretariat)

2. The Bills Committee deliberated (index of proceedings attached at **Annex.**)

Consultation on the Bill

3. The Bills Committee agreed to invite the two legal professional bodies and the respondents to the "Consultation Paper on Proposed Legislative Amendments for the Implementation of the Civil Justice Reform" issued in April 2006 to give views on the Bill.

Follow-up actions required

4. The Judiciary Administration was requested to provide members with copies of the Final Report on Civil Justice Reform published in March 2004 to facilitate members' deliberation on the Bill.

Action

Resource Centre for Unrepresented Litigants

Judiciary
Administration

5. To assist members to have a better understanding of the needs of unrepresented litigants, the Judiciary Administration was requested to provide the following information concerning the Resource Centre for Unrepresented Litigants for members' reference -

- (a) results of the user satisfaction survey conducted by the Judiciary Administration on the Resource Centre; and
- (b) nature of questions/information frequently asked/sought by users of the Resource Centre.

Costs-only proceedings

Judiciary
Administration

6. In relation to the proposed section 52B of the High Court Ordinance (clause 3), members expressed concern that the court was empowered to make an order awarding costs to or against any party to the proceedings, or against a person who was not a party to the proceedings and requested the Judiciary Administration to -

- (a) explain the reasons for granting such powers to the court in respect of costs-only proceedings; and
- (b) provide information on circumstances under which it was envisaged that such powers might be invoked by the court.

Interim relief in aid of proceedings outside Hong Kong

Judiciary
Administration

7. In relation to the proposed section 21M of the High Court Ordinance (clause 10) concerning interim relief in aid of proceedings outside Hong Kong, the Judiciary Administration was requested to provide written information on -

- (a) circumstances under which judgments made by courts outside Hong Kong might be enforceable in Hong Kong at common law (i.e. the proposed clause 21M(1)(b)); and
- (b) considerations which would be taken into account by the court in determining applications for grant of interim relief in proceedings outside Hong Kong under the proposed section 21M, and how such considerations compared with those taken into account by the court in considering applications for interim relief in local proceedings.

Action

III. Any other business

Dates of future meetings

8. The Bills Committee agreed that the following meetings be scheduled -
- (a) 30 May 2007 (Wednesday) at 8:30 am;
 - (b) 11 June 2007 (Monday) at 4:30 pm;
 - (c) 21 June 2007 (Thursday) at 4:30 pm; and
 - (d) 26 June 2007 (Tuesday) at 8:30 am.

The Bills Committee also agreed to meet with deputations at the meeting on 11 June 2007.

9. The meeting ended at 12:27 pm.

Council Business Division 2
Legislative Council Secretariat
29 May 2007

**Proceedings of the first meeting of the
Bills Committee on Civil Justice (Miscellaneous Amendments) Bill 2007
on Tuesday, 15 May 2007, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000000 - 000328	Ms Margaret NG Mr James TO Mr Ronny TONG	Election of Chairman	
000329 - 002522	Judiciary Administration Chairman	Briefing by the Judiciary Administration on the background, objectives and scope of the Bill The Judiciary Administration informed that a near final draft of the requisite amendments to subsidiary legislation was expected to be ready after summer and could be provided for members' reference as considered necessary by members	
002523 - 002635	Chairman Judiciary Administration	The Judiciary Administration was requested to provide members with copies of the Final Report on Civil Justice Reform published in March 2004 to facilitate members' deliberation on the Bill	Judiciary Administration to follow up
002636 - 003625	Chairman Mr Ronny TONG Judiciary Administration Mr LI Kwok-ying	Invitation of the two legal professional bodies and the respondents to the "Consultation Paper on Proposed Legislative Amendments for the Implementation of the Civil Justice Reform" to give views on the Bill The Judiciary Administration was requested to provide the following information concerning the Resource Centre for Unrepresented Litigants - (a) results of the user satisfaction survey conducted by the Judiciary Administration; and (b) nature of questions/information frequently asked/sought by users	LegCo Secretariat to issue invitation letters Judiciary Administration to follow up
003626 - 004521	Chairman Mr Ronny TONG Mr LI Kwok-ying Mr James TO	Dates of future meetings	
004522 - 005049	Chairman Judiciary Administration	Briefing by the Judiciary Administration on Part 2 of the Bill relating to costs-only proceedings, a new cause of action	

Time Marker	Speaker(s)	Subject(s)	Action required
		introduced to facilitate settlement	
005050 - 010944	Mr James TO Judiciary Administration Chairman	<p>Members' concern about the proposed section 52B(3)(b) and (c) of the High Court Ordinance (HCO) which provided that in respect of costs-only proceedings, the court might make an order awarding costs to or against any party to the proceedings, or against a person who was not a party to the proceedings -</p> <p>(a) such provisions appeared to be inconsistent with the premise and objective for commencing costs-only proceedings, which was to enable parties who had agreed on all issues in dispute, including who was to pay the costs, but who could not agree on the amount of costs, to have the relevant costs taxed by the court;</p> <p>(b) such provisions would introduce an element of uncertainty into costs-only proceedings as to who should pay the costs of the dispute, and as such might deter parties to a dispute from using such proceedings; and</p> <p>(c) similar provisions were not found in UK's Civil Procedure Rules</p> <p>Judiciary Administration's response that -</p> <p>(a) the proposed section 52B(3)(b) and (c) were included, having regard to the court's general discretion on costs and the proposal in Part 10 of the Bill to empower the court to make a cost order against a non-party, with a view to ensuring that the court would be given full powers to determine matters relating to costs;</p> <p>(b) it was envisaged that the court would invoke the proposed section 52B(3)(c), i.e. to make a cost order against a non-party only under exceptional circumstances and only if it was satisfied that it was in the interests of justice to do so; and</p> <p>(c) supporting rules governing how the court would exercise the discretionary powers provided under the proposed section 52B(3)(c) would be stipulated in the relevant subsidiary legislation</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		The Judiciary Administration was requested to explain the reasons for including the proposed section 52B(3)(b) and (c) and provide information on circumstances under which such clauses might be invoked by the court, having regard to the concerns raised by members	Judiciary Administration to follow up
010945 - 011449	Judiciary Administration Chairman Mr James TO	Jurisdiction of the District Court in respect of costs-only proceedings (the proposed section 52C of HCO)	
011450 - 011605	Judiciary Administration Chairman	Scale of costs on which costs awarded were taxed (the proposed section 52D of HCO)	
011606 - 011909	Judiciary Administration Chairman	Briefing by the Judiciary Administration on Part 3 of the Bill concerning the extension of the common law defence of tender before action to a claim for unliquidated damages with the objective of facilitating early settlement	
011910 - 012622	Judiciary Administration	Briefing by the Judiciary Administration on Part 4 of the Bill concerning interim relief in aid of proceedings outside Hong Kong, including circumstances under which interim relief might be granted and types of interim relief (the proposed section 21M of HCO)	
012623 - 014301	Mr James TO Judiciary Administration Chairman	<p>The qualifying conditions for granting interim relief under the proposed section 21M</p> <p>Explanation by the Judiciary Administration that “a judgment which may be enforced in Hong Kong” (the proposed section 21M(1)(b)) referred to a judgment given by a court outside Hong Kong which might be enforced in Hong Kong under the Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap. 319) or at common law</p> <p>The Judiciary Administration was requested to provide written information on –</p> <p>(a) circumstances under which judgments made in courts outside Hong Kong might be enforceable in Hong Kong at common law (the proposed section 21M(1)(b)); and</p> <p>(b) considerations which would be taken into account by the court in</p>	Judiciary Administration to follow up

Time Marker	Speaker(s)	Subject(s)	Action required
		determining applications for grant of interim relief in proceedings outside Hong Kong under the proposed section 21M, and how such considerations compared with those taken into account by the court in considering applications for interim relief in local proceedings	

Council Business Division 2
Legislative Council Secretariat
29 May 2007