

香港司法機構
司法機構政務處



JUDICIARY ADMINISTRATION
JUDICIARY
HONG KONG

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22 March 2007

Clerk to LegCo Panel on
Administration of Justice and Legal Services
(Attn: Mrs Percy Ma)
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Dear Mrs Ma,

**Panel on Administration of Justice and Legal Services
Follow-up Action to Meeting on 12 December 2006**

I refer to the follow-up actions required as set out in the minutes of the above meeting.

Civil Justice Reform (paragraph 33 of minutes)

2. At the meeting on 12 December 2006, the Hon Martin Lee pointed out that if new rules were created or rules were modified from those of the Civil Procedural Rules (“CPR”) in England and Wales for use in the High Court to implement the Civil Justice Reform (“CJR”), there would be no precedent case law in the United Kingdom to which Hong Kong can make reference. The Judiciary Administrator indicated that she did not envisage the problem raised by the Hon Martin Lee, and undertook to give a written response.

3. The question of whether the CJR should be implemented by (i) adopting a new set of rules along the lines of the CPR or (ii) amending the existing Rules of the High Court (“RHC”) (Cap. 4A) was one of the matters put forward for consultation by the Working Party on CJR (“Working Party”) in its *Interim Report and Consultative Paper* published in November 2001. Having considered the responses received and the experience of the CPR, the Working Party had concluded in its *Final Report* that the proposed reforms should be implemented by way of amendment to the RHC rather than by adopting a new set of rules along the lines of the CPR, as this approach would be less disruptive and less demanding to the legal community as a whole.

4. In coming to the above conclusion, the Working Party had noted that this was the approach adopted by New South Wales, and taken into account the views of the two legal professional bodies. Specifically, the Bar Association had stressed the relative ease of mastering amendments over having to learn a whole new code. The Law Society considered that a new code was unnecessary, and that the reforms could and should be implemented by amending and supplementing the existing rules and where necessary re-interpreting existing rules.

5. The Working Party also noted that it was originally thought that with the CPR, it might be possible in most cases to do away with references to decided cases and rely instead on broadly formulated rules construed with the guidance of the overriding objective. Nevertheless, the experience in England and Wales had revealed that case law on the CPR has been developing.

6. In drawing up the proposed legislative amendments to implement the CJR, the Steering Committee on CJR has made reference to the relevant rules in the CPR, where appropriate, with necessary modifications to suit the local circumstances, having regard to the recommendations in the Working Party Final Report. With this approach, we believe that, upon the coming into effect of the new legislation for the implementation of CJR, appropriate reference may be made to the case law (whether pre-CJR or post-CJR) in England and Wales or the pre-existing RHC case law in Hong Kong, depending on their relevance, having regard to the provision in question in and the circumstances of the individual case. New case law on the new legislation will also be built up in Hong Kong.

Implementation of a Five-day Week for the Judiciary (paragraph 42 of minutes)

7. At the meeting, in response to the Hon Martin Lee's question, the Judiciary Administrator assured Members that Judges had been kept fully informed of the court arrangement under five-day week and their discretionary power to list court sittings on Saturdays. This arrangement was set out in the paper entitled "*Implementation of a Five-day Week for the Judiciary*" (LC Paper No. CB(2)2287/05-06(01)) issued for the AJLS Panel meeting on 26 June 2006. Paragraph 4(a) of the paper is reproduced below for easy reference -

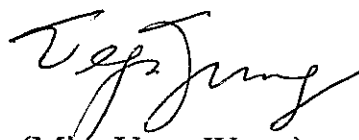
"4. Phase I will commence on 1.7.2006. Under this phase, a five-day week will apply to -

- (a) **Court sittings:** no sittings will be listed on Saturdays, except for admission ceremonies for senior counsel, barristers and solicitors in the High Court, *hearings fixed by individual Judges* or where statute provides for Saturday hearings, for example, under the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62). A new Saturday sitting roster arrangement would be introduced in the Magistrates' Courts to deal with fresh remand cases; and ..." (Emphasis added)

8. The same information was contained in a paper which was sent to all Judges and Judicial Officers ("JJOs") and staff of the Judiciary, the legal profession and other court users on 5 June 2006. In the past 8-month period (July 2006 to February 2007), there were 14 Saturday hearings fixed by individual Judges in the High Court and 5 such hearings in the District Court. The necessary support services were provided for these Saturday sittings.

With warm regards,

Yours sincerely,



(Miss Vega Wong)
for Judiciary Administrator