

**Extract from draft minutes of meeting of
Panel on Administration of Justice and Legal Services on 26 June 2006**

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V. Proposed implementation of a five-day week for the Judiciary

(LC Paper No. CB(2)1787/05-06(01) -- Consultation paper dated April 2006 on the proposed implementation of a five-day week in the Judiciary)

LC Paper No. CB(2)2287/05-06(01) -- Paper provided by the Judiciary Administration on "Implementation of a Five-day Week for the Judiciary"

LC Paper No. CB(2)2517/05-06(03) -- Letter dated 20 June 2006 from the Law Society of Hong Kong on the proposed implementation of a five-day week for the Judiciary)

Briefing by the Judiciary Administrator

23. The Judiciary Administrator (JA) said that following the release of the Consultation Paper on Proposed Implementation of a Five-Day Week for the Judiciary, the Judiciary Administration had, as at 22 May 2006, received a total of 41 submissions, including those from the two legal professional bodies, the Department of Justice and other court users. JA briefed members on the implementation of a five-day week in the Judiciary by three phases --

- (a) Phase I would commence on 1 July 2006. No court sittings would normally be listed on Saturdays, except for admission ceremonies for senior counsel, barristers and solicitors in the High Court. A five-day week would also apply to those back offices without any interface with members of the public;
- (b) Phase II, which would commence on 1 January 2007, covered services with a public interface where the implementation of a five-day week would require administrative preparations but not legislative amendments. The offices which were likely to be covered under Phase II included libraries and the Resource Centre for Unrepresented Litigants (the Resource Centre); and
- (c) Phase III would cover services with a public interface where the implementation of a five-day week would require legislative amendments. These included the court registries and general offices of Magistrates' Courts, Accounts Offices, Bailiffs' Offices, Probate Registry and Oaths and Declarations Office. The implementation of Phase III and its timing would depend on the outcome of the

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comprehensive study being conducted by the Judiciary Administration on all necessary amendments to legislation as well as Practice Directions.

Phase I

24. Mr Anthony ISMAIL of the Bar Association asked whether the present arrangement whereby duty judges at various levels of court were designated to deal with urgent applications under various ordinances outside office hours would continue after the implementation of a five-day week in the Judiciary.

25. JA replied in the affirmative, and explained that upon the implementation of a five-day week in the Judiciary, the duty judges at various levels of court would be on duty for the whole day of Saturday in the same way as they were now on duty in Saturday afternoons, on Sundays and public holidays.

26. In response to Ms Audrey EU's enquiry on the impact of the implementation of a five-day week on the training and development activities for judges, JA explained that not all training activities were currently held on Saturdays. Some seminars and small scale training activities were held on weekdays. While training and development activities conducted by the Judicial Studies Board would usually take place on weekdays after the implementation of a five-day week, some large scale training events would continue to be held on Saturdays. JA assured members that the implementation of a five-day week would not result in a reduction of training activities, which would continue to be an important focus of the Judiciary.

Phase II

27. Regarding the opening hours of libraries, Mr Anthony ISMAIL said that consideration should be given to opening the High Court Library on those Saturdays for which court sittings had been scheduled, for the convenience of litigants and legal practitioners involved in the cases concerned.

28. Ms Audrey EU was of the view that libraries should be open on Saturdays, irrespective of whether there was any court sitting. She also considered that the Resource Centre should be open on Saturdays to cater for court users who were unable to use these services on weekdays.

29. Mr LI Kwok-ying shared Ms EU's view that libraries should be open on Saturdays, as their usage rate on Saturdays was quite high. He asked about the criteria to be adopted by the Judiciary Administration in deciding whether libraries would be open on Saturdays.

30. JA responded that the Judiciary would take into account the views expressed by members, the two professional bodies and other court users. According to the experience of the Judiciary, the usage rates of libraries and the Resource Centre on Saturdays were on the low side, although they did not have any concrete data at hand.

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Starting from June 2006, the Judiciary would monitor the usage rates of libraries and the Resource Centre on Saturdays as compared to weekdays before taking a final decision as to whether they should be covered in Phase II. JA further pointed out that should it be decided that they would be closed on Saturdays, their opening hours on weekdays would be extended.

31. Mr Anthony ISMAIL urged the Judiciary not to focus only on the usage rate in determining the opening hours of libraries, but should also take into account other relevant considerations, such as the needs of small law firms and junior members of the Bar.

Phase III

32. Ms Miriam LAU said that according to paragraphs 17 and 18 of the Consultation Paper, the number of court users served in the registries/offices on a Saturday morning was about 1 500. She was aware that many unrepresented litigants would file documents to the registries on Saturdays as they were unable to do so during weekdays. Closing the registries/offices on Saturdays would create great inconvenience to them. She further said that the Judiciary Administration should seriously consider the needs of the court users in deciding whether a five-day week should be implemented in these registries/offices.

33. JA stressed that the implementation of a five-day week in the registries/offices under Phase III would require legislative amendments. The Judiciary Administration was undertaking a comprehensive study on all necessary legislative amendments to be made, and the timing of implementation of Phase III would depend on the outcome of the comprehensive study. She added that the Judiciary would ensure that the implementation of a five-day week in the Judiciary would not adversely affect its existing level of services to court users.

34. Referring to paragraph 28 of the Consultation Paper, Ms Miriam LAU expressed grave concern about the impact of a five-day week on the operation of time limits. In the absence of any statutory provision to extend a time limit which expired on a Saturday as in the case of a public holiday under section 71(1) of the Interpretation and General Clauses Ordinance (Cap. 1), she was worried that a litigant would be deprived of the right to perform an act at a court office where the time limit expired on a Saturday. She stressed that it was important to ensure that the public's legal rights were not adversely affected by the Judiciary's implementation of a five-day week.

35. JA clarified that when the Consultation Paper was prepared in April 2006, it was the understanding of the Judiciary Administration that the Administration did not intend to amend section 71(1) of Cap. 1 in connection with the implementation of the five-day week in the Judiciary. During the consultation period, the Judiciary Administration had received views from the Bar Association, the Law Society and the Department of Justice that amendments to section 71 of Cap. 1 had to be amended for the implementation of a five-day week in the Judiciary. As set out in the paper

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provided by the Judiciary Administration for this Panel meeting (LC Paper No. CB(2)2287/05-06(01)), the Judiciary would look into the necessary amendments to be made to section 71(1) of Cap. 1 in its comprehensive study on legislative amendments.

36. Mr Anthony ISMAIL concurred that the implementation of a five-day week for the Judiciary should not infringe the legal rights of the public. Mr ISMAIL said that the Bar Association was agreeable to the Judiciary conducting a comprehensive study on the necessary legislative amendments, and urged it to seriously consider amending all the relevant primary and subsidiary legislation, in particular section 71(1) of Cap. 1 for the purpose of implementing a five-day week under Phase III.

37. The Chairman said that the question was not what legislative amendments should be made to enable the implementation of a five-day week in the Judiciary, but whether the Judiciary, in the light of its present duties under the law, should implement a five-day week.

38. JA responded that the Judiciary was now studying the issue and had not yet come to a conclusion. She added that the Judiciary would further discuss the matter with the Panel in due course.

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39. The Chairman requested the Judiciary Administration to provide a paper to inform the Panel of the final decision of the Judiciary concerning the implementation of a five-day week under Phase II and Phase III in due course. JA agreed.

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