

立法會
Legislative Council

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LC Paper No. CB(2)1127/07-08

(These minutes have been seen
by the Administration)

**Subcommittee on Draft Subsidiary Legislation
Relating to the Civil Justice Reform**

**Minutes of the first meeting
held on Monday, 4 February 2008, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon James TO Kun-sun
Hon Miriam LAU Kin-ye, GBS, JP
Hon LI Kwok-ying, MH, JP
Hon Ronny TONG Ka-wah, SC
- Public Officers attending** : Item II
Judiciary Administration
Miss Vega WONG
Assistant Judiciary Administrator (Development)
The Administration
Department of Justice
Mr Wesley WONG
Senior Assistant Law Officer (Civil Law)
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 Subcommittee.

II. Meeting with the Judiciary Administration and the Administration

(LC Paper No. CB(2)1000/07-08(01) - Paper entitled "Proposed Amendments to the Rules of the High Court (Cap. 4A)" provided by the Judiciary Administration

LC Paper No. CB(2)834/07-08 - Report of the Bills Committee on Civil Justice (Miscellaneous Amendments) Bill 2007

LC Paper Nos. CB(2)2111/06-07(01) - (04); CB(2)2260/06-07(01); CB(2)2393/06-07(01) - (02); CB(2)2429/06-07(02) and CB(2)27/07-08(06) - Submissions from deputations to the Bills Committee on Civil Justice (Miscellaneous Amendments) Bill 2007 and the Judiciary Administration/Administration's responses)

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

Consultation on the draft subsidiary legislation

3. The Subcommittee agreed to invite the two legal professional bodies, the organizations/individuals who had given views to the Bills Committee on Civil Justice (Miscellaneous Amendments) Bill 2007 and the Consumer Council to give views on the draft subsidiary legislation relating to the Civil Justice Reform (CJR). The deputations would be invited to give overall views on the latest draft subsidiary legislation as well as specific views on different parts of the draft subsidiary legislation. The Subcommittee might hold a further meeting(s) with deputations on specific subject areas of the draft subsidiary legislation, where necessary.

4. The Subcommittee further agreed that a general invitation for submissions should be posted on the website of the Legislative Council.

(Post-meeting note: In line with usual practice, the 18 District Councils would also be invited to submit views on the draft subsidiary legislation.)

Follow-up actions required

Judiciary
Admin

5. To facilitate the Subcommittee's scrutiny of the draft subsidiary legislation, the Judiciary Administration agreed to provide a summary of responses received in the two rounds of consultation conducted by the Steering Committee on CJR on the proposed amendments to subsidiary legislation in April 2006 and October 2007 respectively.

Action

Judiciary
Admin

6. The Judiciary Administration was requested to address members' concern that there should be appropriate representatives from the Judiciary or the executive authorities attending meetings of the Subcommittee to answer members' questions and concerns relating to the policy aspects of the draft subsidiary legislation.

III. Date of next meeting

7. Members agreed that the meeting for receiving views from deputations should be held in late February/early March. The Clerk would inform members of the date of the next meeting and that of the meeting with deputations in due course.

8. The meeting ended at 9:25 am.

Council Business Division 2
Legislative Council Secretariat
20 February 2008

**Proceedings of the first meeting of the
Subcommittee on Draft Subsidiary Legislation
Relating to the Civil Justice Reform
on Monday, 4 February 2008, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000000 - 000054	Ms Margaret NG Mr Ronny TONG Mr LI Kwok-ying	Election of Chairman	
000055 - 000307	Chairman Mr Ronny TONG	Opening remarks	
000308 - 000543	Chairman Judiciary Administration Administration	In response to the Chairman's enquiry on the non-attendance of representatives from the executive authorities, the Judiciary Administration's explanation that the main subsidiary legislation under the Civil Justice Reform (CJR) was related to court procedures and operation and would be made by the relevant Rules Committees and the Chief Justice. The executive authorities had little involvement in the process of preparing the draft subsidiary legislation which were largely technical in nature	
000544 - 001214	Chairman Judiciary Administration	<p>Briefing by the Judiciary Administration on its paper entitled "Proposed Amendments to the Rules of the High Court (Cap. 4A)" (LC Paper No. CB(2)1000/07-08(01))</p> <p>In response to the Chairman's enquiry on the legislative timetable for the proposed subsidiary legislation, the Judiciary Administration's response that -</p> <p>(a) it was the Judiciary's target to have the proposed subsidiary legislation enacted before the end of the current term of the Legislative Council (LegCo) in the summer of 2008; and</p> <p>(b) to allow time for the Judiciary to conduct training for judges and supporting staff and for the legal profession to organize training to prepare practitioners for implementation of the CJR, the target date for the commencement of the subsidiary legislation under the CJR, if enacted within the current LegCo term, would be the beginning of the second quarter of 2009</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
001215 - 001715	Chairman Mr Ronny TONG Mr James TO Ms Miriam LAU Mr LI Kwok-ying	Invitation of public views	
001716 - 002142	Chairman Judiciary Administration	The Judiciary Administration's response that the proposed amendments to the Rules of the High Court (Cap. 4A) were divided into 25 Parts (Annex A to LC Paper No. CB(2)1000/07-08(01))	
002143 - 002640	Chairman Judiciary Administration	To facilitate the Subcommittee's scrutiny of the draft subsidiary legislation, the Judiciary Administration agreed to provide a summary of responses received in the two rounds of consultation conducted by the Steering Committee on CJR on the proposed amendments to subsidiary legislation in April 2006 and October 2007 respectively	Judiciary Administration to follow up
002641 - 003059	Mr Ronny TONG Chairman ALA5	The negative vetting procedure for the scrutiny of subsidiary legislation by LegCo	
003100 - 004051	Chairman Mr Ronny TONG Ms Miriam LAU	<p>Concern expressed by the Chairman and Mr Ronny TONG that there was no representative from the policy bureaux or the Judiciary to answer members' questions on the policy aspects of the draft subsidiary legislation. The Chairman further raised the following points -</p> <p>(a) matters relating to the operation of courts and powers of judges in the administration of justice were the responsibilities of the Judiciary and outside the remit of the Judiciary Administration;</p> <p>(b) when the Bills Committee on Civil Justice (Miscellaneous Amendments) Bill 2007 sought the advice of the Legal Adviser on a similar concern raised by the Bills Committee, the Legal Adviser had advised, inter alia, that (i) he was not aware of any rule which would prohibit the Bills Committee to invite judges to attend its meetings or any protocol which would make judges unable to come to LegCo; and (ii) subject to the Chief Justice's agreement, the Chief Judge, in his capacity as Chairman of the Steering Committee, might be an</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>appropriate person to be invited to attend the meetings of the Bills Committee, on the understanding that anything that might relate to judicial aspects of judges' functions would be outside the scope of discussion at these meetings; and</p> <p>(c) while the Judiciary Administration could relay the views of the Judiciary in writing to the Subcommittee, it was not a desirable arrangement</p> <p>Ms Miriam LAU's view whilst it was not appropriate for judges to attend the Subcommittee meetings in judicial capacity, they could do so in their capacities as members/Chairman of the Steering Committee on CJR</p>	
004052 - 004814	Judiciary Administration Chairman Mr Ronny TONG	<p>Judiciary Administration's response that -</p> <p>(a) the Judiciary maintained its position as previously expressed to the Bills Committee that as a matter of constitutional principle, judges should not appear before LegCo committees; and</p> <p>(b) the rules were related to the policy on court procedures and operation and would be made by the relevant rule-making authorities. The executive authorities had limited involvement in the process; and</p> <p>(c) together with representatives from the Department of Justice who could provide the relevant legal expertise, the Judiciary Administration would, on behalf of the Judiciary, facilitate the Subcommittee in its work by providing the necessary explanation and assistance. The representative from the Judiciary Administration had been closely involved in the process of the CJR and had served as the Secretary to the Steering Committee on CJR</p> <p>The Judiciary Administration was requested to address members' concern that there should be appropriate representatives from the Judiciary or the executive authorities attending meetings</p>	<p>Judiciary Administration to follow up</p>

Time Marker	Speaker(s)	Subject(s)	Action required
		of the Subcommittee to answer members' questions and concerns relating to the policy aspects of the draft subsidiary legislation	
004815 - 005525	Chairman Ms Miriam LAU Mr LI Kwok-ying	Date of next meeting and that of the meeting for receiving deputations	

Council Business Division 2
Legislative Council Secretariat
20 February 2008