

立法會
Legislative Council

LC Paper No. CB(2)730/10-11
(These minutes have been seen
by the Administration)

Ref : CB2/BC/1/10

Bills Committee on Legislation Publication Bill

Minutes of the meeting
held on Monday, 22 November 2010, from 8:30 am
in Conference Room A of the Legislative Council Building

Members present : Dr Hon Margaret NG (Chairman)
Hon Albert HO Chun-yan
Hon LAU Kong-wah, JP
Hon Cyd HO Sau-lan
Dr Hon Samson TAM Wai-ho, JP

Public Officers attending : Agenda item II

Department of Justice

Mr Gilbert MO
Deputy Law Draftsman (Bilingual Drafting &
Administration)

Mr W C SUEN
Senior Assistant Law Draftsman (Professional
Development)

Ms Mabel CHEUNG
Senior Government Counsel

Mr Peter SZE
Government Counsel

Action

Clerk in attendance : Mr Thomas WONG
Chief Council Secretary (2)2

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Ms Wendy LO
Senior Council Secretary (2)4

Ms Yvonne OA-YANG
Council Secretary (2)2

Miss Cerry YU
Legislative Assistant (2)2

Action

I. Election of Chairman

Dr Margaret NG was elected Chairman of the Bills Committee.

II. Meeting with the Administration

LC Paper No. CB(3)28/10-11 -- The Bill

LDT 6064/IC -- Legislative Council Brief

LS3/10-11 -- Legal Service Division Report on the Bill

LC Paper No. CB(2)330/10-11(01) -- Background brief prepared by the Legislative Council Secretariat

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

Follow-up actions

3. The Administration was requested to respond in writing to the following concerns raised by members on the Legislation Publication Bill ("the Bill") -

Action

- (a) which version of an Ordinance, i.e. the printed version signed by the Chief Executive or the on-line version published in the electronic database of legislation ("the Database") proposed to be established under the Bill, would be the authoritative version;
- (b) measures that would be introduced to ensure the authenticity of copies of Ordinances published in the Database;
- (c) whether legal safeguards would be put in place to protect the interests of users of the Database if the on-line version of an Ordinance in the Database accessed by them contained inaccuracies, although it was presumed to be an authenticated version;
- (d) how the court would handle disputes arising from the on-line version of particular provisions in the Database altered by hacking;
- (e) the Legislative Council ("LegCo")'s powers to amend the Secretary for Justice ("SJ")'s revision orders if LegCo disagreed with SJ's revisions;
- (f) the rationale for adopting the negative vetting procedure instead of the positive vetting procedure in relation to the revision order in the Gazette by which SJ might make revisions to an Ordinance;
- (g) whether measures would be put in place to facilitate the public and members of the legal profession to track amendments/revisions to Ordinances in the Database;
- (h) whether measures would be put in place to facilitate users of the Database to retrieve the previous versions of any statutory provisions which had been repealed or amended before 1 July 1997;
- (i) whether enhancements could be made to the existing on-line Bilingual Laws Information System, particularly in respect of its function to trace the previous versions of Ordinances;

Action

- (j) after the retirement of the Loose-leaf Edition of the Laws of Hong Kong ("the Loose-leaf Edition"), whether the Department of Justice would continue to have the responsibility to arrange the publication of the replacement pages for updating;
 - (k) whether the co-existence of the Database and the Loose-leaf Edition would be feasible;
 - (l) whether the Gazette would be published in the Database;
 - (m) after the implementation of the Database, whether the on-line version of a bill would be displayed on a computer screen in front of each Member when the bill was read a third time; and
 - (n) the experiences of overseas jurisdictions in the implementation of similar electronic database systems, including the problems encountered and the transitional arrangements for the implementation of such systems.
4. Members agreed that the Judiciary Administration, the two professional legal bodies, major law enforcement agencies and the Legal Service division of the LegCo Secretariat be invited to give views on the Bill.

III. Any other business

Date of next meeting

5. The Chairman suggested and members agreed that the next meeting be tentatively scheduled for Friday, 7 January 2011, at 10:45 am to receive views from deputations and continue discussion with the Administration.
6. The meeting ended at 9:40 am.

Council Business Division 2
Legislative Council Secretariat
4 January 2011

**Proceedings of the meeting of the
Bills Committee on Legislation Publication Bill
on Monday, 22 November 2010, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000224	Dr Margret NG Ms Cyd HO Dr Samson TAM	Election of Chairman	
000225 - 002208	Chairman Admin	<p>Briefing by the Administration on the Legislation Publication Bill ("the Bill"), with the following highlights:</p> <ul style="list-style-type: none"> (a) the object of the Bill was to facilitate public access to the legislation of Hong Kong. It provided for the establishment of an electronic database of legislation and the approval of a website on which copies of legislation with a legal status might be published ("the Database"); (b) the Database would replace the existing on-line Bilingual Laws Information System ("BLIS"), which contained a consolidated version of legislation but had no statutory status; (c) the Loose-leaf Edition of the Laws of Hong Kong ("the Loose-leaf Edition"), which had a statutory status, would migrate gradually to and be replaced eventually by the Database; (d) the Database would contain – <ul style="list-style-type: none"> (i) the consolidated versions of Ordinances; (ii) the national laws applying in Hong Kong; and (iii) the records of editorial amendments compiled by the Secretary for Justice ("SJ"); (e) the Database might also contain – <ul style="list-style-type: none"> (i) bills to be introduced or introduced into the Legislative Council ("LegCo"); (ii) as made Ordinances, i.e. the gazetted version of Ordinances; and (iii) materials and information (such as editorial notes) that SJ considered useful to users of the Database; 	

Time marker	Speaker	Subject	Action required
		<p>(f) a copy of an Ordinance published in the Database, when enacted, would be presumed to correctly state the Ordinance unless the contrary was proved;</p> <p>(g) SJ would be empowered to cause an authenticated copy of any Ordinance to be published in the form of a booklet;</p> <p>(h) the Bill would empower SJ to make editorial amendments/revisions to Ordinances, and sought to consolidate the existing provisions for doing so;</p> <p>(i) the editorial amendments that SJ might make would be minor and technical in nature, such as editorial changes to the format, layout, printing style or other presentational aspects of any Ordinance, and corrections to grammatical mistakes or typographical errors. The Bill would not permit any editorial amendments that would change the legal effect of any Ordinance;</p> <p>(j) SJ's revisions to Ordinances might include dividing a long Ordinance into parts or divisions, and, if the name or title of an officer had changed, making an alteration to reflect the change. Such revisions might go beyond technical amendments and might affect the contents of such Ordinances. SJ would therefore be required to make revisions by order in the Gazette and such an order was not to come into operation before expiry of the full "negative vetting" period; and</p> <p>(k) the records of all editorial amendments/revisions to Ordinances in the Database would be properly compiled and made available for sight and search by the public, with a view to ensuring transparency and avoiding any possible abuse of the editorial/revision powers by SJ.</p> <p>The Chairman's suggestion that the Law Society of Hong Kong and the Hong Kong Bar Association should be invited to give views on the Bill.</p>	
002209 - 002700	Chairman	<p>Views that the Database should provide the public with a website facilitating convenient access to up-to-date Hong Kong legislation with a legal status.</p> <p>Raised concerns that -</p> <p>(a) the spirit of the provisions relating to revisions to Ordinances under the Bill was to confer powers on SJ to make laws rather than to make editorial amendments/revisions to Ordinances;</p>	

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		<ul style="list-style-type: none"> (b) the limit of powers to be given to SJ to make minor editorial amendments/revisions in the Database was not clearly delineated in the Bill; (c) the Administration and Members might occasionally have conflicting interpretations over what a minor editorial amendment meant and whether such an amendment would alter the legal effect of an Ordinance; (d) whether measures would be put in place to facilitate the users to track changes to Ordinances in the Database; and (e) which version of an Ordinance, i.e. the printed version signed by the Chief Executive or the on-line version published in the Database, would be the authoritative version. 	
002701 - 003454	Chairman Ms Cyd HO SALA 2	<p>The Administration was requested to provide information on -</p> <ul style="list-style-type: none"> (a) the rationale for adopting the negative vetting procedure instead of the positive vetting procedure in relation to an order in the Gazette by which SJ might make revisions to an Ordinance; (b) whether the Gazette would be published in the Database; (c) whether measures would be put in place to facilitate users of the Database to retrieve the previous versions of any statutory provisions which had been repealed or amended before 1 July 1997; (d) in addition to legal professional bodies, the Government's law enforcement agencies (notably the Hong Kong Police Force) should be invited to give views on the Bill, particularly in respect of whether their computer systems would be updated to tally with the implementation of the Database and how to fend off hacking to protect the authenticity of the on-line version of legislation to which they had access frequently; and (e) whether members of the Judiciary/the Judiciary staff, who might not be frequent Internet users, had been consulted on the Bill. <p>Suggestion to invite the Judiciary Administration and major law enforcement agencies to give views on the Bill.</p>	Clerk

Time marker	Speaker	Subject	Action required
003455 - 004128	Chairman Mr Albert HO	<p>The Administration was requested to provide information on -</p> <ul style="list-style-type: none"> (a) whether the co-existence of the Database and the Loose-leaf Edition would be feasible; (b) how the court would handle disputes arising from the on-line version of particular provisions in the Database altered by hacking; (c) whether measures would be put in place to facilitate the public to trace the records of amendments/revisions made to Ordinances; (d) after the retirement of the Loose-leaf Edition, whether the Department of Justice would continue to have the responsibility to arrange the publication of the replacement pages for updating; and (e) the timetable for the implementation of the Database. 	
004129 - 004249	Chairman Dr Samson TAM	<p>The Administration was requested to provide information on whether legal safeguards would be put in place to protect the interests of users of the Database if the on-line version of an Ordinance in the Database accessed by them contained inaccuracies, although it was presumed to be an authenticated version.</p>	
004250 - 005314	Chairman SALA 2	<p>The Legal Adviser's query on whether the Loose-leaf Edition should be retained as it could be updated by replacement pages flexibly, whereas the whole printed copy of an Ordinance published in the form of a booklet would need to be replaced if certain provisions in the Ordinance had been amended.</p> <p>The version of an Ordinance passed by LegCo and promulgated in the Gazette should serve as the basis on which a copy of an Ordinance published in the Database could be presumed to be authenticated.</p> <p>The Administration was requested to provide information on -</p> <ul style="list-style-type: none"> (a) measures that would be introduced to ensure the authenticity of copies of legislation published in the Database; (b) LegCo's powers to amend SJ's revision orders if LegCo disagreed with SJ's revisions; and (c) the experiences of overseas jurisdictions in the implementation of similar electronic database systems, including the problems encountered and 	

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		<p>the transitional arrangements for the implementation of such systems.</p> <p>The Chairman's suggestion that the Legal Service Division of the LegCo Secretariat, expected to be a main user of the Database, should be invited to give views on the Bill.</p>	The Secretariat
005315 - 010629	Chairman Admin	<p>The Administration's response on the timetable for the implementation of the Database -</p> <ul style="list-style-type: none"> (a) it was envisaged that subject to passage of the Bill by LegCo in 2011, the procurement exercise for the implementation of the Database would commence in December 2011 and the contract would be awarded in early 2012; (b) the Database containing modernized presentation of legislation was expected to commence operation from 2015 on completion of internal testing; and (c) the migration of all Ordinances to the Database was expected to be completed in 2019. <p>The Administration's preliminary response to members' concerns that -</p> <ul style="list-style-type: none"> (a) provisions for making editorial amendments/revisions to legislation had already been in existence but scattered in various Ordinances. The Bill sought to consolidate such provisions. The Administration did not intend to introduce any new approach; (b) the Bill was to facilitate timely editorial amendments/revisions to Ordinances instead of conferring arbitrary revision powers on SJ. If all proposed editorial amendments/revisions to Ordinances needed to be submitted to LegCo for approval by way of positive vetting, the lead time for updating legislation would be lengthened; (c) the Database would endeavour to allow its users to retrieve previous versions of legislation and records of amendments/revisions conveniently; (d) advanced security technologies would be employed to protect the Database from hacking, computer crashes or other accidents. The Database would be supported by independent servers and the information in it would have sufficient off-line back-ups stored in discs; (e) the printed copies of Ordinances published in the form of a booklet were to satisfy the needs of non-Internet users. These copies would originate 	

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		<p>from a single source, i.e. the authenticated copy of Ordinances published in the Database, and consequently, any inconsistency arising from having two separate sources (i.e. BLIS and the Loose-leaf Edition) would be avoided; and</p> <p>(f) the implementation of the Database would facilitate timely access to the up-to-date version of Ordinances with a legal status. The lead time for updating copies of Ordinances in the Database would be shortened significantly in comparison with that for updating the Loose-leaf Edition.</p> <p>The Chairman's grave concern that the Bill was to confer blanket power on SJ to make editorial amendments/revisions to Ordinances.</p>	
010630 - 010834	Chairman Mr Albert HO	<p>The Chairman's enquiry on whether enhancements could be made to BLIS, particularly in respect of its function to trace the previous versions of legislation.</p> <p>Mr Albert HO's enquiry on whether, after the implementation of the Database, the on-line version of a bill would be displayed on a computer screen in front of each Member when the bill was read a third time.</p> <p>The Administration was requested to respond in writing to the concerns expressed by members at the meeting.</p> <p>Members agreed that the Judiciary Administration, the two professional legal bodies, relevant law enforcements bodies and the Legal Service Division of the LegCo Secretariat be invited to give views on the Bill.</p>	Admin Clerk
010835 - 011002	Chairman Admin	The next meeting	

Council Business Division 2
Legislative Council Secretariat
4 January 2011

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