

**立法會**  
**Legislative Council**

LC Paper No. CB(2) 1345/10-11  
(These minutes have been seen  
by the Administration)

Ref : CB2/BC/1/10

**Bills Committee on Legislation Publication Bill**

**Minutes of meeting**  
**held on Monday, 24 January 2011, at 8:30 am**  
**in Conference Room B 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** : 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

Mr Daniel CHUI  
Systems Manager (2)

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Mr Edward WONG  
Analyst/Programmer (5)

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

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

Ms Alice LEUNG  
Senior Council Secretary (2) 2

Miss Meghan MOK  
Legislative Assistant (2) 2

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**I. Meeting with the Administration**  
[LC Paper Nos. CB(2)890/10-11(01) and (02)]

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

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2. The Administration was requested to respond in writing to the following concerns raised by members in relation to the proposed electronic database of legislation with legal status ("the Database") under the Legislation Publication Bill ("the Bill") -

- (a) the contingency measures adopted by overseas jurisdictions to recover their electronic legislation databases in case they were damaged by hacking, including whether there was any service pledge on the time required for recovering the damaged database;
- (b) whether government departments in Hong Kong (such as the Hong Kong Police Force) had a similar pledge as in (a) to protect their on-line systems, and whether they had a tiered warning system to assess the risks of hacking;

Action

- (c) with reference to paragraph 9 of the Administration's paper [LC Paper No. CB(2)890/10-11(02)], the workflow of using archiving devices to store legislation data in permanent, non-rewritable and removable media whenever such data were to be uploaded to the Database;
- (d) the transitional arrangements adopted by the overseas jurisdictions stated in paragraph 14 of the above Administration's paper for migrating the printed version of legislation to their electronic legislation databases, including -
  - (i) the duration of such migration;
  - (ii) whether the copy of legislation published in the databases was deemed authentic;
  - (iii) whether the printed official version of legislation had been phased-out or had co-existed with the electronic version; and
  - (iv) ways to update the electronic version and printed version of legislation;
- (e) the estimated manpower to be incurred for the exercise of incorporating the past versions of legislation between 1991 (when the Loose-leaf Edition of the Laws of Hong Kong was first issued) and 30 June 1997 in the Database, including -
  - (i) the estimated time required for typing out the text of legislation and amendments concerned;
  - (ii) the grades of staff to be involved; and
  - (iii) whether any tasks could be out-sourced; and
- (f) clarification on the powers of the Secretary for Justice ("SJ") to make editorial amendments to Ordinances under section 12(1) of the Bill, including -
  - (i) the legal provenance of such powers;
  - (ii) how SJ exercised such powers in previous cases;

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- (iii) the appropriateness of conferring such powers on SJ;
- (iv) the procedures of making such amendments, such as whether notices would be given prior to making any amendments;
- (v) channels to deal with any disagreement with such amendments; and
- (vi) the relevant legal provisions in overseas jurisdictions on the powers to make such amendments to the copy of legislation published in their electronic databases.

LegCo  
Secretariat

3. Members agreed to request the Research Division of the Legislative Council Secretariat to conduct research on the transitional arrangements adopted by overseas jurisdictions for migrating the printed version of legislation to their electronic legislation databases.

## **II. Any other business**

### Dates of future meetings

4. Members agreed to hold the next three meetings on the following dates –

- (a) 14 February 2011 at 10:45 am;
- (b) 25 February 2011 at 10:45 am; and
- (c) 4 March 2011 at 10:45 am.

[*Post-meeting note:* At the meeting on 14 February 2011, members agreed to re-schedule the meeting originally scheduled for 4 March 2011 to 9 March 2011.]

5. There being no other business, the meeting ended at 10:25 pm.

Council Business Division 2  
Legislative Council Secretariat  
23 March 2011

**Proceedings of the meeting of the  
Bills Committee on Legislation Publication Bill  
on Monday, 24 January 2011, at 8:30 am  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 001150	Chairman Admin	The Administration's briefing on its written response to issues raised by members in relation to the proposed electronic database of legislation with legal status ("the Database") under the Legislation Publication Bill ("the Bill") at the meeting on 7 January 2011 [LC Paper No. CB(2)890/10-11(02)].	
001151 - 001851	Chairman Dr Samson TAM Admin	<p>Dr Samson TAM's concern about the Database's user capacity and enquiry about –</p> <p>(a) the preventive measures to be put in place against on-line attacks to the Database, particularly multiple and co-ordinated ones; and</p> <p>(b) if the Database was forced to be shut down, the time required for its recovery.</p> <p>The Administration's response that –</p> <p>(a) the Database's servers, comprising the external facing web server(s) and the internal server(s), would be situated in different locations;</p> <p>(b) disaster recovery mechanisms would be put in place so that if one server of the Database was paralyzed, the other would be in operation to take over the production environment;</p> <p>(c) each server would have sufficient capacity to cater for concurrent access by a larger number of users;</p> <p>(d) if any hacking activity was identified, alerts would be sent to the Database support staff for immediate follow-up actions, such as stopping such activities and investigating the source of them. If they could not be stopped, internal contingency measures would be activated to recover the damaged Database; and</p>	

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		<p>(e) the Database, if damaged, would be recovered as soon as practicable, and the recovery requirements (including the duration of recovery that the design should support) would be set out in the tender document for the Database project.</p> <p>The Administration's undertaking to respond in writing to Dr Samson TAM's and the Chairman's enquiry about –</p> <p>(a) whether there was any service pledge in overseas jurisdictions on the time required for recovering their electronic legislation databases if they were damaged by hacking; and</p> <p>(b) whether government departments in Hong Kong (such as the Hong Kong Police Force) had a similar pledge to protect the integrity of their on-line systems, and whether they had a tiered warning system to assess the risks of hacking.</p> <p>The Administration's supplementary information that all government departments had to observe the standards and guidelines issued by the Office of the Government Chief Information Officer on information technology operation management and information security incident handling.</p>	<p>Admin to provide information (para. 2(a) and (b) of minutes)</p>
001852 - 003102	Chairman Admin	<p>The Administration's response to the Chairman's enquiry about the availability of off-line back-ups for the Database and how to detect potential hacking activities -</p> <p>(a) the Database would be backed up at regular intervals with all updated or amended legislation data, thus enabling a swift and full data recovery in the event of system failure;</p> <p>(b) an intrusion detection and prevention system would be installed to monitor the network and servers of the Database and to collect intrusion and attack pattern information. The legislation data in the servers of the Database would also be compared periodically. If any potential hacking activity or discrepancy in the servers was detected, the support staff would be alerted for immediate follow-up actions;</p>	

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		<p>(c) all legislation data in the Database would be stored periodically in permanent, non-rewritable and removable media (such as discs); and</p> <p>(d) despite the proposed retirement of the Loose-leaf Edition of the Laws of Hong Kong ("the Loose-leaf Edition"), an authenticated copy of any Ordinance in the Database would be published in the form of a booklet for sale to the public, and such copies would be made available at public libraries.</p> <p>The Chairman's request for the Administration to detail with examples the workflow of using archiving devices to store legislation data in the Database to permanent, non-rewritable and removable media stated in paragraph 9 of the Administration's paper.</p> <p>Referring to paragraph 17 of the Administration's paper that statutory redress would not be provided for reliance on inaccuracies in materials in the Database, the Chairman's enquiry about how members of the public who used the Database would be aware of any unauthorized amendment made to the copy of Ordinances published in it.</p> <p>The Administration's response that a public announcement would be issued as soon as possible to alert members of the public to unauthorized amendments.</p>	<p>Admin to provide information (para. 2(c) of minutes)</p>
003103 - 010233	<p>Chairman Ms Cyd HO Admin Mr Albert HO</p>	<p>The Chairman's request for the Administration to respond in writing to Ms Cyd HO's enquiry about the transitional arrangements adopted by the overseas jurisdictions stated in paragraph 14 of the Administration's paper for migrating the printed version of legislation to the electronic legislation databases, including –</p> <p>(a) the duration of such migration;</p> <p>(b) whether the copy of legislation published in the databases was deemed authentic;</p> <p>(c) whether the printed official version of legislation had been phased out or had co-existed with the electronic version; and</p> <p>(d) ways to update the electronic version and printed version of legislation.</p>	<p>Admin to provide information (para. 2(d) of minutes)</p>

Time marker	Speaker	Subject	Action required
		<p>The Chairman's request for the Research Division of the Legislative Council ("LegCo") Secretariat to conduct research on overseas experiences in the above aspects.</p> <p>The Administration's response that similar to the arrangements under the Bill, the printed official version of legislation had co-existed with the electronic version in the overseas jurisdictions under study.</p> <p>Noting the Administration's assurance that any unauthorized amendment made to the copy of Ordinances published in the Database did not have any legal effect and did not change the text of the Ordinances, members were of the view that –</p> <p>(a) such assurance would not sufficiently address the concern about the authenticity of Ordinances published in the Database; and</p> <p>(b) the Administration should publish a printed official copy of the whole set of the laws of Hong Kong in disc form at regular intervals after the retirement of the Loose-leaf Edition, and make it available in main law libraries, such as those in courts and LegCo, to facilitate legislation users' verification of the copy of Ordinances published in the Database when necessary.</p>	<p>Research Division of the LegCo Secretariat (para. 3 of minutes)</p>
010234 - 011743	Chairman Admin Ms Cyd HO	<p>The Administration's briefing on the estimated manpower and costs incurred for the exercise of incorporating the past versions of legislation between 1991 (when the Loose-leaf Edition was first issued) and 30 June 1997 in the Database ("the exercise").</p> <p>The Chairman's view that it would be more difficult to trace the past versions of legislation before 1991 if the exercise was not conducted.</p> <p>Ms Cyd HO's view that the exercise would facilitate policy research, as the existing on-line Bilingual Laws Information System ("BLIS"), which adopted 1 July 1997 as the benchmark date, only contained legislation in force in Hong Kong on or after that date and legislation in force immediately before that date (i.e. 30 June 1997).</p>	

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		<p>Noting that the rough cost estimate for the exercise was around \$45 million, members were of the view that the Administration should undertake to earmark the funding for the exercise in its 2011-2012 Budget.</p> <p>Ms Cyd HO's view that the lack of resources for the Department of Justice ("DoJ") to conduct the exercise could be a reasonable ground to veto the Bill, as in some previous cases, the Bills Committees did not support certain bills without the Administration's undertaking to provide resources to implement certain measures.</p> <p>The Chairman's request for the Administration to provide detailed information on the estimated manpower to be incurred for the exercise, including -</p> <ul style="list-style-type: none"> <li>(a) the estimated time required of typists to type out the text of legislation and amendments concerned;</li> <li>(b) the grades of staff to be involved; and</li> <li>(c) whether any tasks could be out-sourced.</li> </ul> <p>The Administration's response that –</p> <ul style="list-style-type: none"> <li>(a) it would bid for resources to conduct the exercise but members should understand that the allocation of resources within DoJ and the whole Government was priority-based;</li> <li>(b) even without additional resources, it would consider selectively back capturing certain Ordinances which had a high usage rate, or spreading out the exercise over a longer period of time;</li> <li>(c) at present, the past versions of legislation between 1991 and 30 June 1997 could be traced from the Loose-leaf Edition, the Gazette and the related legal notices, albeit not so conveniently; and</li> <li>(d) the Bill should not be vetoed just on the ground of the temporary unavailability of such past versions in the Database. The Law Society of Hong Kong ("the Law Society") also looked forward to the early implementation of the Database as it would be beneficial to the legal profession.</li> </ul>	<p>Admin to provide information (para. 2(e) of minutes)</p>

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		<p>The Chairman's view that the Law Society might change its views on the Bill if it was alerted to the problems relating to the migration of the Loose-leaf Edition to the Database.</p> <p>Mr Albert HO's support for the Chairman's suggestion that if the Administration did not wish to take on the exercise, funding could be sought for outsourcing it to local universities.</p> <p>The Chairman's view that if the Administration did not address members' concerns about the Bill, the Bills Committee might convene internal meetings to prepare a written submission on its proposals on the Bill, and to discuss with the Administration based on such proposals.</p>	
011744 - 012419	Chairman Mr Albert HO Admin	<p>On Mr Albert HO's enquiry about whether the establishment of the Database would affect the legislative procedures which had all along dealt with the hardcopy of Bills, the Administration responded in the negative.</p> <p>The Chairman's view that the legislative procedures might be affected, as the authenticity of the copy of Ordinances published in the Database remained questionable.</p>	
012420 - 012942	Chairman Admin	<p>The Administration's briefing on its written response to the views of the Hong Kong Human Rights Monitor on the editorial and revision powers of the Secretary for Justice ("SJ") under the Bill [LC Paper No. CB(2)890/10-11(01)]</p>	
012943 - 013652	Chairman Mr Albert HO Admin	<p>Mr Albert HO's view that even a change of punctuation or preposition in an Ordinance could change the legal effect of the Ordinance, and his enquiry about the availability of any channel for users of the Database to raise objection, if any, to SJ's editorial amendments made to the copy of Ordinances published in the Database.</p> <p>The Chairman's view that the editorial powers conferred by Clause 12(1) of the Bill (e.g. Clause 12(1)(c) on the renumbering of provisions in an Ordinance) on SJ was very wide and could cover amendments which were not minor, and her enquiry about how to rectify wrong amendments made by SJ.</p>	

Time marker	Speaker	Subject	Action required
		<p>The Administration's response that -</p> <ul style="list-style-type: none"> <li>(a) it was not the Administration's intent to have any powers to make editorial amendments which could change the legal effect of any Ordinance;</li> <li>(b) any amendment made by SJ would be recorded and available for public inspection in the Database;</li> <li>(c) if there were different views on an amendment made/to be made by SJ, the Administration would duly consider their grounds and if necessary, withhold the amendment or cause it to be scrutinized through the negative vetting procedure;</li> <li>(d) in the event that SJ made a wrong amendment, it did not have any legal effect throughout; and</li> <li>(e) SJ could use the powers under Clause 12(1) to rectify wrong amendments.</li> </ul>	
013653 - 014843	Chairman Mr Albert HO Admin Ms Cyd HO SALA2	<p>The Legal Adviser's doubt on whether wrong amendments made by SJ could be rectified by SJ's exercise of the editorial powers under Clause 12(1), as Clause 14 of the Bill provided that an Ordinance that was amended under Clause 12 had effect for all purposes, on and after the publication date, as if the amendment had been made by another Ordinance that commenced on the publication date.</p> <p>The Chairman's and Mr Albert HO's request for the Administration to clarify in writing the powers under Clause 12(1) of the Bill, including -</p> <ul style="list-style-type: none"> <li>(a) the legal provenance for such powers;</li> <li>(b) the procedures of making amendments such as whether notice would be given in advance;</li> <li>(c) how SJ exercised such powers in previous cases;</li> <li>(d) channels to deal with any disagreement with an amendment made/to be made by SJ;</li> <li>(e) the appropriateness to confer such powers on SJ; and</li> <li>(f) the relevant legal provisions in overseas jurisdictions on the responsible authority's powers to</li> </ul>	Admin to provide response (para. 2(f) of minutes)

Time marker	Speaker	Subject	Action required
		<p>make editorial amendments to the copy of legislation published in the electronic databases.</p> <p>The Administration's undertaking to provide a comparison between the proposed editorial and revision powers under Clauses 12 and 17 of the Bill and those relating to amendments/revisions to the copy of legislation published in the electronic databases in other major common law jurisdictions.</p>	
014844 - 015149	Chairman Admin	<p>The Chairman's concern that Administration did not accede to members' requests for –</p> <p>(a) emphasizing in the Bill that the commencement date for Clauses 21 and 26 of the Bill relating to the retirement of the Loose-leaf Edition was different from that for other provisions; and</p> <p>(b) the commencement notice to be scrutinized through the positive vetting procedure instead of the negative vetting procedure.</p> <p>The Chairman's suggestion to follow up the above matters at future meetings.</p> <p>The Administration's response that it would consult the Panel on Administration of Justice and Legal Services and other stakeholders before seeking to commence Clauses 21 and 26 of the Bill, and would not table the commencement notice until the Administration was satisfied that the related arrangements were practicable.</p>	
015150 - 015652	Chairman Clerk Mr Albert HO Ms Cyd HO	Dates of future meetings	