

立法會
Legislative Council

LC Paper No. CB(2)2464 /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 Wednesday, 9 March 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
Dr Hon Samson TAM Wai-ho, JP

Member absent : Hon Cyd HO Sau-lan

Public Officers attending : Item II

Department of Justice

Mr Gilbert MO
Deputy Law Draftsman
(Bilingual Drafting and Admin)

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

Ms Mabel CHEUNG
Senior Government Counsel

Action

Mr Peter SZE
Government Counsel

Mr Daniel CHUI
Systems Manager (2)

Mr Rick CHAN
Analyst/Programmer (1)

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

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

Mr Watson CHAN
Head (Research)

Dr Yuki HUEN
Research Officer 8

Ms Alice LEUNG
Senior Council Secretary (2)2

Miss Monique TSEUNG
Legislative Assistant (2)2 (Acting)

Action

I. Confirmation of minutes

[LC Paper No. CB(2)1132/10-11]

The minutes of the meeting held on 7 January 2011 were confirmed.

Action

II. Meeting with the Administration

[LC Paper Nos. CB(2)1139/10-11(01), CB(2)1156/10-11(01) and IN08/10-11]

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

Admin

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

- (a) the services that would be provided by the Administration in connection with the publication of any Ordinances in printed form after the launch of the Database; and
- (b) at what point in time and on which date the act of certification stated in Clause 5(1)(b) of the Bill would be performed by the Law Draftsman on a consolidated version of an Ordinance to be published in the Database.

3. The Administration was also requested to provide its proposed amendments to the Bill to facilitate members' consideration.

III. Any other business

Next meeting

Action

4. Members agreed to hold the next meeting on 28 March 2011 at 10:45 am.

5. The meeting ended at 10:15 am.

Council Business Division 2
Legislative Council Secretariat
29 July 2011

**Proceedings of the meeting of the
Bills Committee on Legislation Publication Bill
on Monday, 9 March 2011, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000-000159	Chairman	Confirmation of minutes	
000200-001929	Chairman Head(Research) of Legislative Council ("LegCo") Secretariat Research Officer ("RO") 8 Mr LAU Kong-wah Admin Dr Samson TAM Wai-ho	<p>Head (Research)'s presentation of the information note on electronic legislation databases in overseas jurisdictions [IN08/10-11].</p> <p>The Chairman noted that in the United Kingdom, a newly enacted legislation would be published on the official electronic legislation database (i.e. Legislation.gov.uk) simultaneously or at least within 24 hours of its publication in printed form. Her enquiry whether other overseas jurisdictions had a similar arrangement.</p> <p>RO8's response that a printed copy of legislation was also available in certain overseas jurisdictions with electronic legislation databases, including Ireland, New Zealand, Queensland in Australia and the Australia Commonwealth.</p> <p>Mr LAU Kong-wah's view that -</p> <p>(a) Clause 9(1) of the Legislation Publication Bill ("the Bill") did not expressly state the Administration's obligation to make available an official printed copy of an Ordinance to the public, as it only stated that the Secretary for Justice ("SJ") might, instead of having to, cause an authenticated copy of any Ordinance to be published in the form of a booklet after the launch of the proposed electronic database of legislation with legal status ("the Database") under the Bill; and</p> <p>(b) Clauses 9(1) and 9(2) of the Bill should be amended, as they did not expressly give an official status to the copy of individual Ordinances to be published in the form of a booklet.</p> <p>The Administration's response that it would consider whether Clauses 9(1) and 9(2) were clear enough in</p>	

Time marker	Speaker	Subject	Action required
		<p>according equal status to the electronic version of an Ordinance published in the Database and its printed version published in the form of a booklet.</p> <p>Dr Samson TAM's enquiry whether sufficient copies of an individual Ordinance published in the form of a booklet would be available for sale to the public.</p> <p>The Administration's response that after the full implementation of the Database, legislation users could conveniently print out the official electronic version of an Ordinance from the Database or purchase its official printed copy published in the form of a booklet by placing order.</p> <p>The Chairman's view that an Ordinance should not be deemed published if it was merely gazetted or uploaded onto the Database, unless its printed copy was also made available to the public.</p>	
001930-002337	Chairman SALA2 Admin	<p>SALA2 noted from Article 76 of the Basic Law that a bill passed by LegCo might take effect only after it had been signed and promulgated by the Chief Executive ("CE"). His enquiry whether the promulgation of a bill had to be in printed format in compliance with Article 76.</p> <p>The Administration's response that according to its understanding of Article 76, both the signing of a bill by CE and its gazettal should be published (currently in printed format), and these arrangements would remain unchanged after the launch of the Database.</p> <p>At the Chairman's request, the Administration undertook to explain in writing what service(s) it would provide in connection with the publication of any Ordinances in printed form after the launch of the Database.</p>	Admin to provide information (para. 2 of the minutes)
002338-004159	Chairman Admin	<p>The Administration's briefing on its written response to concerns raised by members on the Database at the meeting on 14 February 2011 [LC Paper No. CB(2)1139/10-11(01)].</p> <p>Referring to Annex 1 to the Administration's paper on the arrangements for the publication of legislation in New Zealand, the Chairman drew the Administration's attention to the fact that the Chief Parliamentary Counsel there had to ensure the availability of printed copies of legislation for purchase by the public at designated</p>	

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		<p>places.</p> <p>The Administration's response that it had the legal responsibility to ensure the availability of printed copies of legislation to the public after the launch of the Database, and would consider revising the relevant provisions in the Bill. It would also discuss with the Government Logistics Department the arrangements for the publication and sale of such printed copies.</p>	
004200 - 004817	Chairman Admin Dr Samson TAM	<p>Dr Samson TAM's view that as the updating of the electronic copy of an Ordinance published in the Database should be faster than the publication of an updated printed copy of the Ordinance, the Administration should have a service pledge to ensure the availability of such printed copies for sale by the public within a certain time.</p> <p>The Administration's response that despite the anticipated decrease in the subscription to printed copies of legislation after the launch of the Database, it would ensure that such copies would still be available to the public as soon as practicable.</p>	
004818 - 005524	Chairman Admin Dr Samson TAM	<p>In connection with the contingency measures to recover the Database if it was damaged, the Administration's briefing on paragraph 3 of its paper on the relevant parts of 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>Dr Samson TAM's view that commercial corporations (such as banks) in Hong Kong had sufficient experiences and technologies in dealing with security threats to their on-line systems. With reference to their risk management guidelines, the Administration should have no technical difficulties in devising appropriate contingency measures for the Database.</p>	
005525 - 013935	Chairman Admin SALA2 Mr LAU Kong-wah Dr Samson TAM	<p>The Administration's briefing on paragraphs 4 to 8 of its paper on Clause 5 of the Bill which empowered Law Draftsman ("LD") to certify the consolidated version of an Ordinance published in the Database to be an authenticated copy of the Ordinance as at a particular time on a particular date.</p> <p>The Administration's view that the inclusion of the "time" element was to cater for those provisions which</p>	

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		<p>might not commence at zero hour of a particular day. For example, as the Dutiable Commodities (Amendment) Ordinance ("DCAO") provided in Annex 2 to the Administration's paper came into operation at 11 am on 25 February 2009, its versions were different before and after 11 am on 25 February 2009. If the "time" element was not included in the Bill, the Database, on its implementation, would have two different versions on 25 February 2009, and users would be confused why this was so. With the inclusion of the "time" element, users would be able to see that one version showed DACO before 11:00 am, while the other version showed DACO after 11:00 am.</p> <p>In connection with Clause 5(1)(b) of the Bill, SALA2's enquiry –</p> <p>(a) whether the date and time of LD's certification were the commencement date and time of the latest amendment(s) incorporated in the consolidated version of the Ordinance published in the Database; and</p> <p>(b) whether the copy of an Ordinance published in the Database could be certified retrospectively.</p> <p>The Chairman's view that the commencement date and time of an Ordinance should depend on what was stated on the face of the as-made (i.e. gazetted) version of the Ordinance. It appeared that under Clause 5(1)(b) of the Bill, the commencement of an Ordinance at a particular time on a particular date would depend on LD's certification.</p> <p>The Administration's response that –</p> <p>(a) regardless of the launch of the Database, the commencement date and time of an Ordinance had all along been, and would continue to be, dependant on what the as-made version of the Ordinance stated;</p> <p>(b) there would be only one as-made version of an Ordinance published in the Database but could be more than one authenticated consolidated versions of an Ordinance published in the Database as at different times; and</p> <p>(c) under Clause 5(1)(b), LD could not certify the</p>	

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		<p>commencement date and time of an Ordinance but would only certify a consolidated version of the Ordinance published in the Database to be authenticated as at a particular time on a particular date.</p> <p>The Chairman's view that even though an Ordinance might take effect at a particular time other than zero hour of the day, it should not have more than one electronic version published in the Database on the same day, as its special commencement time had been stated in the as-made version of the Ordinance. There was no need to produce different versions of the Ordinance before and after that commencement time on the same day.</p> <p>The Chairman's concern about the ambiguity of the expression "as at a particular time on a particular date" used in Clause 5(1)(b), as it was unclear whether it referred to the date and time at which an Ordinance was signed by CE, the date and time at which a user accessed the current version of an Ordinance published in the Database or retrieved its historical version from the Database, or the state of an Ordinance in the Database as at a particular time on a particular date.</p> <p>The Chairman's request for the Administration to revise Clause 5(1) and clarify at what point in time and on which date the act of LD's certification stated in Clause 5(1)(b) would be exercised. The Administration's undertaking to reconsider the drafting of Clause 5(1).</p> <p>The Chairman's hope that the Administration would address members' concerns about the policy issues arising from the Bill. Her suggestion that if the differences between the Administration and members were too wide to be resolved, she would ask the Bills Committee to determine whether in principle to continue to scrutinize the Bill.</p> <p>SALA2's request for the Administration to provide its proposed amendments to the Bill to facilitate members' consideration.</p>	<p>Admin to provide information (para. 2 of the minutes)</p> <p>Admin to provide information (para. 3 of the minutes)</p>
013936-014415	Chairman	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
29 July 2011