

**立法會**  
***Legislative Council***

LC Paper No. CB(2)2520/10-11  
(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, 28 March 2011, at 10:45 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 and Admin)

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

Ms Mabel CHEUNG  
Senior Government Counsel

Mr Peter SZE  
Government Counsel

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

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**I. Confirmation of minutes**  
[LC Paper No. CB(2)1345/10-11]

The minutes of the meeting held on 24 January 2011 were confirmed.

**II. Meeting with the Administration**  
[LC Paper Nos. CB(2)1156/10-11(01), CB(2)1344/10-11(01) to (03), and CB(2)1365/10-11]

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

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3. The Administration was requested to provide -

- (a) information on where users could access the as-made (i.e. gazetted) Ordinances and their consolidated versions (i.e. Ordinances with amendments incorporated) from 1991 (when the Loose-leaf Edition of the Laws of Hong Kong was first published) to 30 June 1997, from 1 July 1997 to the commencement date of the proposed electronic database of legislation with legal status ("the Database") under the Legislation Publication Bill ("the Bill"), and after the commencement date of the Database; and

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- (b) a marked-up version of the Bill to indicate the Administration's proposed amendments to the Bill.

**III. Any other business**

Dates of future meetings

- 4. Members agreed to hold the next two meetings on -
  - (a) Friday, 15 April 2011 from 10:45 am to 12:45 pm; and
  - (b) Tuesday, 17 May 2011, from 2:30 pm to 4:30 pm.
- 5. Members also agreed that the meeting scheduled for 17 May 2011 might be extended to 6:30 pm, depending on the progress of the clause-by-clause examination of the Bill.
- 6. There being no other business, the meeting ended at 12:50 pm.

Council Business Division 2  
Legislative Council Secretariat  
18 August 2011

**Proceedings of the meeting of the  
Bills Committee on Legislation Publication Bill  
on Monday, 28 March 2011, at 10:45 am  
in Conference Room B of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
000000 - 000210	Chairman Mr Albert HO Mr LAU Kong- wah	Confirmation of minutes	
000211 - 000916	Chairman Admin	The Administration's briefing on its paper on the preparation of the consolidated versions of Ordinances (i.e. Ordinances with amendments incorporated) published in the proposed electronic database of legislation with legal status ("the Database") under the Legislation Publication Bill ("the Bill") [LC Paper No. CB(2)1344/10-11(02)], and its powerpoint presentation of a hypothetical example to facilitate members' understanding of the technical details involved in the preparation of such consolidated versions [LC Paper No.CB(2)1365/10-11].	
000917 - 001337	Chairman Admin	<p>The Chairman noted that the official New South Wales ("NSW") legislation website mentioned in Annex A to the Administration's paper contained two broad categories of legislative contents, viz. "Legislation authorized" (i.e. certified by the Parliamentary Counsel under section 45C(5) of the Interpretation Act 1987) and "Legislation not authorized" (i.e. not certified by the Parliamentary Counsel). Under the category of "Legislation authorized", there were the "In Force" database, which contained the updated version of Ordinances, and the "As Made" database, which contained the version of Ordinances as originally enacted or made. The Chairman's advice that the Administration should make reference to the NSW legislation website where the categorization of legislative contents was clear and easily identified.</p> <p>The Administration's response that similar to the NSW legislation website, the Database would contain the as-made (i.e. gazetted) and current and past consolidated versions of Ordinances.</p> <p>The Chairman's enquiry whether any consolidated version of Ordinances certified by the Law Draftsman</p>	

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		<p>("LD") and published in the Database would have "certified version" appeared at the beginning of the version and "certified by LD" appeared at the foot of each page of the version, similar to the arrangements adopted by the Victorian Legislation Website in Australia mentioned in Annex A to the Administration's paper. The Administration's response that a similar arrangement would be adopted for the Database.</p>	
001338 - 002012	Chairman Admin	<p>The Chairman noted from section 31(2) of the Legislation Revision and Consolidation Act ("the Act") in Canada (Federal) in Annex A to the Administration's paper that in the event of an inconsistency between a consolidated statute published by the Minister under the Act and the original statute or a subsequent amendment as certified by the Clerk of the Parliaments under the Publication of Statutes Act, the original statute or amendment prevails to the extent of the inconsistency. The Chairman's suggestion that the Administration should consider adding a similar provision to the Bill to enable the as-made version of an Ordinance to prevail in the event of an inconsistency between it and LD-certified consolidated version of the Ordinance published in the Database.</p>	
002013 - 004711	Chairman Admin Ms Cyd HO Mr Albert HO SALA2	<p>The Administration's concurrence with Ms Cyd HO's suggestion to consider differentiating the certified and uncertified versions of Ordinances published in the Database by different colours.</p> <p>The Chairman's enquiry whether the printed Loose-leaf Edition of the Laws of Hong Kong ("the Loose-leaf Edition") would be the most authoritative consolidated version of Hong Kong legislation before the launch of the Database. The Administration's response that the Loose-leaf Edition would continue to be updated and the most authoritative consolidated version until the LD-certified consolidated version of Ordinances had been uploaded onto the Database. The subscribers to the Loose-leaf Edition would be notified of the availability of any LD-certified consolidated version of Ordinances published in the Database.</p> <p>With reference to page 17 of the Administration's powerpoint material on the NSW legislation website, Mr Albert HO's suggestion that the Database should provide information on the status of an Ordinance published therein, such as the currency of the version, the historical notes on the Ordinance, whether it had been certified by</p>	

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		<p>LD, and whether its provisions were all in force. The Administration's response in the affirmative.</p> <p>SALA2 noted from page 19 of the Administration's powerpoint material on the proposed migration of the past consolidated versions of Ordinances between 30 June 1997 and the commencement date of the Database (i.e. the launch date) from the existing Bilingual Legislation Information System ("BLIS") to the Database for users' reference only. His enquiry whether the Loose-leaf Edition between 1992 (when it was launched) and 30 June 1997 would be migrated to the Database.</p> <p>The Administration's response that -</p> <p>(a) it planned to do so but did not have a timetable at the current stage, as priority would be accorded to the migration of the consolidated versions in the Loose-leaf Edition from 1 July 1997 onwards to the Database; and</p> <p>(b) it would be technically easier to migrate the consolidated versions of Ordinances in BLIS to the Database, as they were in electronic form, had no legal status and for users' reference only.</p> <p>At the Chairman's request, the Administration's undertaking to provide information on where users could access the as-made and consolidated versions of Ordinances from 1991 to 30 June 1997, from 1 July 1997 to the launch date, and after the launch date.</p>	<p>Admin (para. 3(a) of the minutes)</p>
004712 - 010427	Chairman Admin Ms Cyd HO	<p>In connection with the hypothetical example with a special commencement arrangement (i.e. the Infectious Diseases (Amendment) Ordinance 2018, which was assumed to come into operation at 11:00 am on 8 August 2018) mentioned in paragraphs 19 to 23 of the Administration's paper, the Chairman's enquiry about how users of the Database would be informed of the availability of two different versions of the Infectious Diseases Ordinance (Cap. 828) as at different times on 8 August 2018 (i.e. one effective from 11:00 am on 8 August 2018 and the other valid before 11:00 am on the same day) in the Database.</p> <p>The Administration's response that if a user chose to see the version of Cap. 828 on 8 August 2018, the Database would remind the user of the availability of two different</p>	

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		<p>versions of Cap. 828 as at different times on the same date.</p> <p>Ms Cyd HO's question that if a user accessed the version of Cap. 828 before 11:00 am on 8 August 2018 and its new version would not be effective from 11:00 am on the same day, whether the Database would have a function alerting the user to the upcoming availability of the new version. The Administration's response that it had not considered such detailed arrangements.</p> <p>The Chairman noted from the table in paragraph 23 of the Administration's paper that the expression "version as at 11:00 am" and its Chinese translation "截至上午 11 時的版本" had been used by the Administration to describe the most current status of the consolidated version of an Ordinance certified by LD and published in the Database. Her advice that such English and Chinese expressions were misleading, as they only reflected the status of the version up to 11:00 am and did not reflect its status from 11:00 am. The Administration's concurrence to her suggestion to replace "as at" with "effective from" in the English text and "截至" with "自...起" in the Chinese text.</p>	
010428 - 015128	Chairman Admin Ms Cyd HO Mr Albert HO SALA 2	<p>The Administration's briefing on its paper from paragraphs 1 to 5 on the arrangements for the publication of as-made Ordinances in both printed and electronic form after the launch of the Database [LC Paper No. CB(2)1344/10-11(01)].</p> <p>The Administration's emphasis that after the launch of the Database, it -</p> <ul style="list-style-type: none"> <li>(a) would continue to publish each as-made Ordinance in the Gazette, and this version would be deemed authentic and serve as the fundamental version of the Ordinance; and</li> <li>(b) would not continue to update BLIS.</li> </ul> <p>The Administration's briefing on its paper from paragraphs 6 to 10 on the publication of the consolidated versions of Ordinances before and after the establishment of the Database [LC paper No. CB(2)1344/10-11(01)].</p> <p>The Administration's emphasis that after the launch of the Database –</p>	

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		<p>(a) the public could still obtain a printed copy of a consolidated version of an Ordinance by various ways, viz. downloading from the Database, purchase from the Government's Information Services Department ("ISD"), subscription to a DVD-Rom (or other storage medium) from ISD and access to public libraries; and</p> <p>(b) the electronic copy of as-made Ordinances would be available in the Database.</p> <p>The Chairman's enquiry whether LD would perform certification under Clause 5(1)(b) of the Bill only when amendments to an as-made Ordinance were incorporated by the Law Drafting Division into the Ordinance as the consolidated version of the Ordinance to be published in the Database.</p> <p>The Administration responded in the affirmative and added that LD's certification was to signify the accuracy of the incorporation. The consolidated version of an Ordinance so certified would be the current version until the Ordinance had been amended again and LD had performed another certification.</p> <p>Mr Albert HO's enquiry about why the lead time for updating the Loose-leaf Edition required six to nine months. The Chairman's advice that such updating involved much tedious logistics work. The Administration's response that the updating had to be fool-proof, and faster updating would require more resources.</p> <p>Ms Cyd HO's disappointment that the Administration's proposed five-working-day lead time for updating the electronic version of a consolidated version of an Ordinance published in the Database was too long.</p> <p>In connection with the lead time for updating the electronic consolidated version of an Ordinance published in the Database, SALA2's enquiry whether the Database would have a function notifying its users of any Ordinances which had been amended but its electronic consolidated version in the Database had not been updated.</p> <p>The Administration's response that except for special circumstances (e.g. many amendments to Ordinances</p>	



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		<p>coming into operation on the same day), the consolidated version of an Ordinance published in the Database would be updated on the commencement of amendments to the Ordinance.</p>	
015129 - 015908	Chairman Admin Ms Cyd HO	<p>Ms Cyd HO noted that under section 4D of the Official Languages Ordinance (Cap. 5), the Secretary for Justice ("SJ")'s alterations to the text of an Ordinance were subject to the Legislative Council ("LegCo")'s negative vetting. Her enquiry why this arrangement would not be adopted for SJ's editorial amendments to Ordinances.</p> <p>The Administration's response that in line with the practices in overseas common law jurisdictions, the Bill provided for different arrangements for the following two types of SJ's amendments to Ordinances –</p> <p>(a) the editorial amendments made by SJ under Clause 12 of the Bill, which were minor and uncontroversial in nature and therefore would not be subject to LegCo's scrutiny. However, they could not change the legal effect of any Ordinance, and SJ had to compile a record of them, which would be available for public inspection; and</p> <p>(b) the revisions made by SJ under Clause 17 of the Bill, which were not subject to the restriction of no change to legal effect and had to be subject to LegCo's negative vetting.</p> <p>The Administration's view that whether certain SJ's editorial amendments might be subject to LegCo's scrutiny could be discussed during the clause-by-clause examination of the Bill.</p> <p>The Chairman noted from the Administration's paper [Paper No. CB(2)1344/10-11(03)] that there would have three different commencement arrangements for three types of provisions in the Bill, viz. commencement on gazettal, upon the establishment of the Database and after the full implementation of the Database. Her suggestion that the respective commencement arrangement should be indicated in the relevant provisions to facilitate referencing.</p> <p>The Chairman's advice that the Administration should reconsider its proposal to repeal the Loose-leaf Edition under Clause 26 of the Bill.</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
		The Chairman's request for the Administration to provide a marked-up version of the Bill to indicate its proposed amendments to the Bill, with a view to facilitating the clause-by-clause examination of the Bill at subsequent meetings.	Admin (para. 3(b) of the minutes)
015909 - 020105	Chairman	Dates of future meetings	

Council Business Division 2  
Legislative Council Secretariat  
18 August 2011