

**Submission of the Legal Service Division of
the Legislative Council Secretariat
on the Legislation Publication Bill**

The Legal Service Division (LSD) of the Legislative Council (LegCo) Secretariat wishes to thank the Bills Committee on Legislation Publication Bill for its invitation to give views on the Bill. Our observations and suggestions on the implementation of the new arrangements provided in the Bill set out below are submitted for the consideration of the Bills Committee -

- (a) as the new electronic database would be the sole database with legal status and both the current database (BLIS) and the loose-leaf edition of the Laws of Hong Kong would be phased out, it is important that there are adequate fail-safe features in the system and that contingency measures would be put in place to deal with any unexpected serious failure of the electronic database, approved website or the internet system. There may be a need to consider whether it is necessary to have a fall-back option to ensure uninterrupted and convenient public access to the complete set of Hong Kong legislation at all times;
- (b) measures should be put in place to enable users to keep abreast of the latest amendments or updates when accessing the database. For example, whether a particular statutory provision has commenced operation and the commencement date. The record of editorial amendments should also be kept in a form which would enable users to find out easily the Ordinances and/or subsidiary legislation that are affected by the editorial amendments. Hyperlinks to the respective Ordinances and/or subsidiary legislation may be considered for this purpose. The approved website (as well as printed pages therefrom) should clearly show the date when each statutory provision was last updated and whether there are any outstanding amendments yet to be made to that provision;
- (c) current subscribers to the loose-leaf edition who wish to update the edition should be able to do so by periodically printing out their own “replacement issues” off the online legislation database. To that end, the format and layout of the online database could be designed in such a way that printed pages would be compatible with those of the current loose-leaf editions to facilitate the updating and some form of noter-up service could be provided to assist the self-updating;

- (d) as some users would continue to use, whether by preference or by necessity, the printed pages from the approved website for attending court or meetings, it would be helpful if each page from the approved website would bear the date of printing/downloading and distinguishing features of the approved website so as to identify such printed/downloaded contents of statutes vis-à-vis any other versions provided by other data/contents service providers like Lexis;
- (e) the following "wish list" of functionalities may be considered in the design of the approved website:
 - (i) the approved website should be browser-neutral and accessible by both desktop and mobile devices;
 - (ii) for each Ordinance or piece of subsidiary legislation, a scrollable index appearing alongside the full text of the provisions, whereby a click of an individual section number on the index on the left-hand side of the screen would display the full text of that section on the right-hand side of the screen (e.g. www.legislation.nsw.gov.au);
 - (iii) ability to display both English and Chinese texts on the same screen;
 - (iv) ability to print both English and Chinese texts on the same page;
 - (v) ability to print a highlighted portion and/or the entirety of a section, a Part, or the whole Ordinance or piece of subsidiary legislation (e.g. www.legislation.gov.uk);
 - (vi) ability to browse through Ordinances or subsidiary legislation alphabetically, chronologically and/or by chapter numbers (e.g. www.hklii.hk, www.legislation.gov.uk, www.comlaw.gov.au, www.legislation.nsw.gov.au and www.austlii.edu.au);
 - (vii) ability to download and print authenticated copies of Ordinances and/or subsidiary legislation in Word, pdf, html (webpage) and/or zip formats (e.g. www.comlaw.gov.au, and www.legislation.gov.uk), which could obviate the need for booklets of Ordinances to be published under Clause 9 of the Bill;

- (viii) internal hyperlinks between a defined term (wherever it appears in the legislation) and the provision (e.g. the Interpretation section) in which the term is defined (e.g. www.austlii.edu.au, and www.hklii.hk);
 - (ix) internal hyperlinks between a provision (the first provision) and another provision of the same Ordinance or piece of subsidiary legislation referred to in the first provision (e.g. www.austlii.edu.au and www.hklii.hk);
 - (x) external hyperlinks between a provision of an Ordinance or a piece of subsidiary legislation (the first provision) and another Ordinance or piece of subsidiary legislation (or a provision thereof) referred to in the first provision (e.g. www.austlii.edu.au and www.hklii.hk);
 - (xi) external hyperlinks between a provision (or amendment thereof) of an Ordinance or a piece of subsidiary legislation and the relevant gazette version or Legal Notice which introduced that provision/amendment; in other words, hyperlinks between the online legislation database and the e-Gazette website;
 - (xii) improved search capabilities (cf. BLIS vs. Lexis);
 - (xiii) enhanced capabilities to show search results alphabetically, chronologically and sequentially (i.e. according to chapter number; section number and subsection number); and
 - (xiv) ability to retrieve previous versions of any statutory provision which has been repealed or amended since or before 1997, with historical notes detailing the legislative history of a piece of legislation and all its amending instruments (e.g. www.legislation.nsw.gov.au);
- (f) it may be essential to provide a specific strict liability offence for unlawfully interfering with (e.g. editing, redacting, amending, modifying, altering) the database of Hong Kong legislation or approved website;
- (g) the Administration may consider consulting on the practical aspects of the new database and website:
- (i) the law faculties of local universities;

- (ii) overseas academics (e.g. those of the University of New South Wales and the University of Technology, Sydney who jointly run Austlii and helped set up Hklii (see <http://www.austlii.edu.au/austlii/personnel.html>)); and
 - (iii) The Law & Technology Centre, a joint centre of the Department of Computer Science and the Faculty of Law at the University of Hong Kong, which has been running Hklii since its inception in 2002 and is familiar with any technical and operational issues associated with an electronic legal database (see <http://www.lawtech.hk/en/home.html>); and
- (h) the Administration should continue to consult stakeholders at various stages of the development of the new database and website to ensure that it contains features that suit the needs of users.

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