

## **Response to Hong Kong Human Rights Monitor's Submission**

The Bills Committee requested the Administration to provide a written response to the submission from the Hong Kong Human Rights Monitor in respect of the Legislation Publication Bill (the "Bill"). Accordingly, we are writing to respond to the concerns raised in the submission.

### **Editorial powers are in conformity with the Basic Law** (paragraphs 2 to 4 in the submission)

2. We have obtained legal advice that the proposal to empower the Secretary for Justice to make editorial amendments to legislation is in conformity with the Basic Law, including the provisions concerning human rights.

### **Editorial amendments made pursuant to Clause 12 of the Bill** (paragraphs 5 to 8 in the submission)

3. Clause 12 of the Bill covers minor editorial amendments only e.g. correcting a grammatical, clerical or typographical error and changing the presentational aspects of Ordinances. These amendments will be made to the consolidated version of the Ordinances in the Database. Clause 13 expressly states that the editorial powers will be subject to the overriding principle that any editorial amendment cannot change the legal effect of any legislation.

4. To ensure that members of the public will have convenient access to the amendments made under Clause 12, a record of editorial amendments will be compiled and made available for inspection on the approved website (Clauses 4 and 15 of the Bill). Further, under clause 16, an editorial amendment will not have effect unless information relating to it is entered in the record. In addition, the Database will be designed in a way that the public will be able to track both editorial and legislative changes to legislation conveniently. An e-mail alert function will also be developed in conjunction with the Database to alert users of updates of selected legislation.

5. Given the minor and technical nature of the editorial amendments made under Clause 12, they do not appear to warrant legislative scrutiny. Similar practice could be found in some major common law jurisdictions

including New Zealand and a number of states in Australia, namely Australian Capital Territory, Queensland, Victoria and Western Australia.

**Revisions made pursuant to Clause 17 of the Bill** (paragraphs 9 to 11 in the submission)

6. The types of amendments envisaged under Clause 17 are not intended to be substantive. Amendments that have the effect of changing the position on human rights protection or involve major controversies or changes would not be dealt with under that clause. Moreover, all revision orders made by the Secretary for Justice under Clause 17 are subject to the negative vetting procedure as set out in section 34 of the Interpretation and General Clauses Ordinance (Cap.1). Clause 18 of the Bill is an additional safeguard which provides that a revision order is not to come into operation before the expiry of the negative vetting period.

**Department of Justice**  
**January 2011**