

Legislation Publication Bill (the “Bill”)

Replies to LegCo Secretariat’s Questions of 9 February 2011

Clause 1

Section 20 of the Interpretation and General Clauses Ordinance (Cap.1) provides that commencement notices may fix different days for different provisions of an Ordinance to commence. We plan to commence Clause 20 on gazettal of the Ordinance if passed and will propose a Committee Stage amendment to Clause 1 for that purpose. That clause provides for additional editorial powers in relation to the Loose-leaf Edition which are necessary to update existing texts in the Loose-leaf. Depending on the progress of the database project, separate commencement notices would be prepared to bring other provisions into operation and they would be subject to the scrutiny of the Legislative Council.

Clause 2

2. “As made Ordinance” as defined in Clause 2 would include both amending Ordinances as well as principal Ordinances, whether or not they are given chapter numbers.

3. “Editorial amendment” as defined does not cover an editorial amendment made to the Loose-leaf Edition. The definition of “permitted amendment” includes an amendment to an Ordinance made under section 2(2)(b), (d) or (e) of the Laws (Loose-leaf Publication) Ordinance 1990.

Clause 3

4. The Database may include legislation that are not currently applying in Hong Kong.

Clause 4

5. To facilitate research and referencing, we intend to give a chapter number to the Legislation Publication Ordinance after its enactment when it is included in the Loose-leaf Edition.

6. An Ordinance, once entered into the Database and given a chapter number, must have been editorially amended. For example, the enacting provision would have been omitted pursuant to Clause 12(1)(g). From

then on, the Database will contain a consolidated version of the Ordinance even though it has never been amended by another piece of legislation.

7. The “as made” version of an Ordinance is different from the consolidated version. The former is denoted by an Ordinance number in its original form while the latter would be given a chapter number with the enacting provision omitted on being entered into the Database. The Secretary for Justice may include both the “as made” version as well as the consolidated version of an Ordinance in the Database.

8. The Database will include national laws applying in Hong Kong in their original form. We would also compile their consolidated form if the provisions are textually amended.

9. To facilitate users, an “as made” Ordinance that has not yet commenced may be included in the Database.

10. Clause 3 empowers the Secretary for Justice to establish and maintain an electronic database of legislation applying in Hong Kong, and to approve a website on which the information in the database may be published and accessed. Clause 4 provides for the contents of the Database. Reading Clauses 3 and 4 together, they are wide enough to cover the record of editorial amendments compiled under Clause 15 (Clause 4(1)(c)) and other useful legislation, materials and information (Clause 4(2)(c)).

Clause 5

11. The reference to “a particular time” in addition to “a particular date” is to cover the situation where an amendment to an Ordinance comes into operation during the course of a day (e.g., at 12 noon). The Ordinance would then have 2 consolidated versions as at that date, one before 12 noon and the other since the amendment has been incorporated.

12. A published authenticated copy of an Ordinance will remain published on the approved website even after the Ordinance has been subsequently amended and an updated consolidated version is published. It would be kept as a past consolidated version of the Ordinance with an authenticated status in the Database.

Clause 6

13. In addition to the current version of national laws applying in Hong Kong, we would also include the past versions of national laws since 1 July 1997 in the Database.

Clauses 7 & 9

14. “As made” Ordinances are required to be published in the Gazette under section 20 of the Interpretation and General Clauses Ordinance (Cap. 1). They may also be included in the Database under Clause 4(2)(b). “As made” Ordinances, once included in the Database, would not be withdrawn even after amendments are incorporated into the consolidated version of the relevant Ordinances. Users could still find the “as made” Ordinances in the Gazette or through the Database.

Clause 8

15. Past versions will also be available for legislation referred to in Clause 4(2)(c).

Department of Justice
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