

立法會

Legislative Council

LC Paper No. CB(2)330/10-11(02)

Ref : CB2/BC/1/10

Background brief for the Bills Committee on Legislation Publication Bill

Purpose

This paper sets out the background of the Legislation Publication Bill and gives a brief account of the discussions by the Panel on Administration of Justice and Legal Services ("the Panel") on the proposed legislation which seeks to establish an electronic database of legislation with legal status and provide for editorial and revision powers for making minor amendments to Ordinances.

Background

Compilation and publication of laws

Loose-leaf Edition

2. At present, legislation as made is published in the Government Gazette and deemed to be authentic as so published. To facilitate public access, all the Ordinances in force are published in a consolidated form in the Loose-Leaf Edition of the Laws of Hong Kong ("Loose-leaf Edition"). By virtue of the Laws (Loose-leaf Publication) Ordinance 1990, the Loose-leaf Edition has statutory status. Anyone who wishes to refer in court to an updated official version of Hong Kong legislation can only rely on the Loose-leaf Edition. It now comprises 48 volumes with 40 576 replaceable pages, and is updated twice a year (in June and November) in the form of replacement issues published by the Department of Justice ("DoJ").

Bilingual Laws Information System

3. DoJ also maintains an on-line legislation database, known as the Bilingual Laws Information System ("BLIS"), which is available free to the public on the internet. While BLIS also contains a consolidated version of legislation and is updated more frequently (lead time for updating is normally

three to four weeks), it has no legal status and is for reference only. In addition to providing access to the current legislation of Hong Kong, BLIS also allows the public to retrieve the previous version of any statutory provision which has been repealed or amended since 1 July 1997.

Feasibility Study on the establishment of an electronic database with legal status

4. In May 2009, DoJ commissioned a consultant to conduct a feasibility study on the establishment and maintenance of a verified, authenticated and searchable electronic database of Hong Kong legislation. After considering the experience of overseas jurisdictions and the architecture of BLIS, the study concluded that a new system should replace BLIS to provide the public with a website facilitating free and convenient access to accurate and up-to-date Hong Kong legislation with legal status.

Issues raised by Members

5. On 15 December 2009, the Administration briefed the Panel on its initiatives to improve the quality of and accessibility to Hong Kong legislation including those related to drafting practices and new document design. Members noted that some of the more significant changes to drafting practices included use of "must" instead of "shall" and use of gender neutral language, and these new drafting styles and practices had been adopted when amending existing legislation. Members expressed concern that the same piece of legislation might contain both new and old drafting styles. The Administration advised members that it would look for opportunities in amending exercises to make consequential amendments for the sake of tidiness.

6. On 26 April 2010, the Administration further briefed the Panel on the new document design of draft legislation and its proposal to establish a verified, authenticated and searchable electronic database of Hong Kong legislation to replace the existing Loose-leaf Edition and BLIS. The Administration also advised the Panel of the need to introduce a bill to give legal status to the proposed electronic database, and to provide for sufficient editorial powers to alter the texts of existing legislation in order to conform with the new format and drafting styles.

7. Members in general supported the proposed changes to the document design of legislation. While members supported the introduction of the

proposed electronic database, they considered that the database should also provide value-added services such as annotation service. The Administration advised that although annotation of legislation was essentially a service to be provided by legal publishers, the database would adopt the use of an open data format which would facilitate legal publishers to provide value-added services including annotation service. As regards whether the exercise of the editorial powers, if granted, would alter the effect of the legislation concerned, the Administration assured members that mechanisms would be put in place to ensure that any editorial changes would not alter the effect of the relevant legislation. It would be written into the proposed bill that any editorial powers could not alter the effect of the legislation.

8. The financial proposal to establish the proposed electronic database was endorsed by the Finance Committee on 14 May 2010. When considering the financial proposal, members urged the Administration to be very careful in planning for the phasing out of the Loose-leaf Edition. The Administration assured members that the Loose-leaf Edition would not be phased out until the electronic database had been authenticated and proved to be able to satisfy the needs of the legal community.

9. The Administration had provided for Members' reference samples of a new bill, an amendment bill and resolutions of the Legislative Council which were issued vide LC Paper Nos. CB(2)2148/09-10 and AS320/09-10 on 3 and 31 August 2010 respectively. The new document design of legislation has been adopted in the new legislative session.

Relevant papers

10. A list of the relevant papers is in the **Appendix**.

Appendix

Bills Committee on Legislation Publication Bill

Relevant documents

<u>Meeting</u>	<u>Meeting Date</u>	<u>Paper</u>
Panel on Administration of Justice and Legal Services	15 December 2009	<p>Administration's paper on "Drafting of legislation" [LC Paper No. CB(2)512/09-10(04)] http://www.legco.gov.hk/yr09-10/english/panels/ajls/papers/aj1215cb2-512-4-e.pdf</p> <p>Background brief on "Drafting of legislation" prepared by the Legislative Council Secretariat [LC Paper No. CB(2)512/09-10(05)] http://www.legco.gov.hk/yr09-10/english/panels/ajls/papers/aj1215cb2-512-5-e.pdf</p> <p>Minutes of meeting [LC Paper No. CB(2)931/09-10] http://www.legco.gov.hk/yr09-10/english/panels/ajls/minutes/aj20091215.pdf</p>
	26 April 2010	<p>Administration's paper on the document design of draft legislation [LC Paper No. CB(2)615/09-10(01)] http://www.legco.gov.hk/yr09-10/english/panels/ajls/papers/aj1215cb2-615-1-e.pdf</p> <p>Administration's paper on "Proposal to implement a verified, authenticated and searchable electronic database of Hong Kong legislation"</p>

<u>Meeting</u>	<u>Meeting Date</u>	<u>Paper</u>
		[LC Paper No. CB(2)1349/09-10(08)] http://www.legco.gov.hk/yr09-10/english/panels/ajls/papers/aj0426cb2-1349-8-e.pdf
		Minutes of meeting [LC Paper No. CB(2)1887/09-10] http://www.legco.gov.hk/yr09-10/english/panels/ajls/minutes/aj20100426.pdf
Finance Committee	14 May 2010	Minutes of meeting [LC Paper No. FC164/09-10] http://www.legco.gov.hk/yr09-10/english/fc/fc/minutes/fc20100514.pdf
	--	Letter dated 7 July 2010 from the Law Draftsman to the Secretary General on "New Document Design of Legislation" [LC Paper No. CB(2)2148/09-10(01)] http://www.legco.gov.hk/yr09-10/chinese/panels/ajls/papers/ajcb2-2148-1-ec.pdf
	--	Letter dated 26 August 2010 from the Law Draftsman to the Secretary General on "New document design of legislation Resolution of the Legislative Council" LC Paper No. AS320/09-10(01)