

II. REPORT

The date of First Reading of the Bill is 16 March 2016. Members may refer to the Legislative Council (LegCo) Brief (File Ref.: CSO/ADM CR 3/3231/13) issued by the Administration Wing of the Chief Secretary for Administration's Office and the Judiciary Administration on 24 February 2016 for further details.

Object of the Bill

2. The Bill seeks to amend various legislation to complete implementation of a five-day week for the Judiciary of Hong Kong; and to revise certain provisions about the computation of time in relation to judicial proceedings or about the opening time of courts or court offices.

Background

3. In April 2006, the then Chief Justice decided to adopt a five-day week for the Judiciary, having regard to the five-day week initiative adopted by the Administration. The introduction of a five-day week in the Judiciary is implemented in three phases:

- (a) the first phase, which commenced on 1 July 2006, implemented a five-day week which applied generally to court sittings¹ and back offices which have no interface with members of the public;
- (b) the second phase, which commenced on 1 January 2007, implemented a five-day week through administrative arrangements and was applicable to services with a public interface, e.g. services provided by the Resource Centre for Unrepresented Litigants and the Press and Public Relations Office; and
- (c) the third phase is the implementation of a five-day week through legislative amendments in the Bill, and it is applicable to services with a public interface, i.e. services provided by court offices, including court registries and accounts offices of various levels of court.

¹ Generally, no sittings are listed on Saturdays with the exception of some special hearings and a Saturday sitting roster arrangement has been introduced in the Magistrates' Courts to deal with fresh remand cases. On the other hand, admission ceremonies continue to be held on Saturday mornings.

Provisions of the Bill

4. The Bill is divided in 23 parts. The major amendments are summarized in the following paragraphs.

Part 2 – Amendments relating to the computation of time for statutory periods

5. Part 2 of the Bill seeks to amend section 71 of the Interpretation and General Clauses Ordinance (Cap. 1) by providing that if the computation of time is in relation to the doing of an act or the taking of a proceeding at a court office, the closure day for the office, which includes Saturdays, will not be counted for that computation in certain specified circumstances. The effect is that the act or proceeding is considered as done or taken in due time if it is done or taken on the next following day, not being a closure day for the office.

Parts 3, 4, 14 and 16 – Amendments relating to the opening time of courts or court offices and the computation of time in relation to judicial proceedings

6. Relevant provisions or rules under the High Court Ordinance (Cap. 4), the Rules of the High Court (Cap. 4A), the Rules of the District Court (Cap. 336H) and the Hong Kong Court of Final Appeal Rules (Cap. 484A) are proposed to be amended to provide that:

- (a) the offices of the Court of Final Appeal, the High Court, its registries and offices, and the offices of the District Court could be closed on Saturdays; and
- (b) in certain specified circumstances Saturdays will not be counted for the computation of time in relation to proceedings in the High Court and the District Court, as well as for service of certain documents.

Part 5 – Amendments relating to the computation of time for the purposes of the Bankruptcy Ordinance (Cap. 6)

7. Part 5 of the Bill seeks to amend section 122 of Cap. 6 to exclude Saturdays in certain specified circumstances for the computation of time under Cap. 6.

Parts 6 and 15 – Amendments relating to payment-out days under relevant rules

8. Parts 6 and 15 of the Bill seek to amend rule 6 of the Labour Tribunal (Suitors' Funds) Rules (Cap. 25D) and rule 6 of the Small Claims Tribunal (Suitors' Funds) Rules (Cap. 338D) respectively to provide that the payment-out days under the rules will tally with the revised opening days, under a five-day week, of the accounts office of the tribunal concerned.

Part 7 – Amendments relating to the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62)

9. In connection with the legislative amendments on the opening time of courts and tribunals, Part 7 of the Bill seeks to amend Cap. 62 to tally with the general closure of courts and certain tribunals on Saturdays (which are excluded from the definition of "working day").

Parts 17 and 18 – Amendments relating to the Coroners Ordinance (Cap. 504) and the Coroners Rules (Cap. 504B)

10. Parts 17 and 18 of the Bill seek to amend sections 2 and 22 of Cap. 504 and rule 9 of Cap. 504B to provide that Saturdays will not be reckoned in computing time in relation to service of summons on jurors, and that an inquest into the death of a person will not be held on a Saturday (unless the coroner considers it requisite to do so on grounds of urgency).

Parts 8 to 13, 19 to 23 – Amendments relating to fixed penalties and forms prescribed under various legislation

11. The Bill also seeks to amend provisions in various legislation (e.g. the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237), Fixed Penalty (Smoking Offences) Ordinance (Cap. 600), and Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap. 611)) relating to fixed penalties to provide that:

- (a) Saturdays are not to be reckoned in computing the deadline for paying a fixed penalty to terminate the related proceedings; and
- (b) for certain prescribed forms relating to fixed penalties, the specific openings hours of the accounts offices of the magistrates' courts are repealed and substituted by the relevant telephone number and website for the public to make enquiries.

Commencement

12. The Bill, if passed, would come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

Public Consultation

13. According to paragraph 19 of the LegCo Brief, the Judiciary has consulted various stakeholders, including the Hong Kong Bar Association and the Law Society of Hong Kong. The Judiciary has taken into account the

stakeholders' comments on the Bill. The stakeholders are generally supportive of the Bill.

Consultation with LegCo Panel

14. The Clerk to the Panel on Administration of Justice and Legal Services (Panel) has advised that the Panel was consulted by the Judiciary Administration on the legislative proposals to implement the final phase of a five-day week in the Judiciary at its meeting held on 21 December 2015. Panel Members were advised of the administrative measures to be taken for the purposes of ensuring that essential services will not be affected by the implementation of a five-day week in the Judiciary. They were also advised that the Judiciary will ensure that court offices will open on Saturdays or even general holidays where necessary. The Judiciary will review and may adjust, if necessary, the related operational arrangements six months after the proposed legislative amendments come into effect. Panel Members were generally supportive of the legislative proposals and the related operational arrangements.

Conclusion

15. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. Since the Bill seeks to implement the final phase of a five-day week for the Judiciary which would apply to certain services that have a public interface, Members may wish to form a Bills Committee to study the Bill in detail.

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