

For discussion on
25 February 1999

**Panel on Administration of Justice and Legal Services of
the Legislative Council**

Administration of Justice (Miscellaneous Provisions) Bill 1999

Purpose

This paper sets out our proposed amendments in the Administration of Justice (Miscellaneous Provisions) Bill 1999.

Background and Argument

2. The Administration Wing periodically introduces Administration of Justice (Miscellaneous Provisions) bills to implement proposals which require legislative amendments to various court-related ordinances. The last time we introduced such a bill was in 1997 to deal with transition-related issues. Since then, we have identified a number of issues which require amendments to various court-related ordinances.

3. The amendments in the proposed Administration of Justice (Miscellaneous Provisions) Bill include -

- (a) removing the requirement that judicial proceedings shall be adjourned when the red rainstorm warning signal is hoisted;
- (b) streamlining the mechanism for appointing judicial officers in various courts and tribunals on a temporary basis; and
- (c) making minor technical amendments to the various ordinances detailed in paragraph 9 below.

Judicial Proceedings during Rainstorm Warnings

4. The Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62) states that all judicial proceedings which are set down for hearing or are being conducted should be adjourned when a gale warning i.e. tropical

cyclone warning signal of No. 8 or above, or a red or black rainstorm warning signal is in force. According to the Judiciary's experience, court times are wasted under circumstances in which the red rainstorm warning signal is hoisted but the weather condition does not prevent the parties concerned from attending the court. It also causes confusion and inconvenience to court users when all parties concerned are available, only to find that the proceedings stand due to the hoisting of the red rainstorm warning signal. To make efficient use of court time, to avoid undue disruption to the operation of the court, and to minimise as much inconvenience to court users as possible, we propose to remove the requirement that judicial proceedings shall be adjourned when the red rainstorm warning is hoisted.

5. There might be concern that a litigant will be obliged to appear before the court when a red rainstorm warning signal is in force and if he/she should fail to arrive at the court at the prescribed time due to adverse weather, a default judgment might be entered against him/her. To address this, the Judiciary, after the enactment of the bill, will remind judges and judicial officers to be flexible and exercise their discretion regarding adjournment when one party does not turn up when a red rainstorm warning signal is in force.

Temporary Judicial Appointment

6. From time to time, temporary judicial appointments are made to cater for the Judiciary's short-term operational needs. For instance, temporary judicial appointments are required to fill vacancies left by incumbents going on leave or acting in a higher rank, or to cope with an unexpected upsurge in workload, or to test out potential candidates for permanent appointments.

7. At present, the Chief Justice has statutory power for making temporary appointments of deputy judges of the Court of First Instance, deputy District Judges and deputy adjudicators of the Small Claims Tribunal. There is no statutory provision for temporary appointments of members of the Lands Tribunal, presiding officer of the Labour Tribunal, magistrates and coroner, and the appointing authority is taken to be the same as that for permanent appointments i.e. the appointment has to be made by the Chief Executive. Nevertheless, in practice, the authority in most of these cases has been delegated to the Chief Justice.

8. We propose to introduce the necessary amendments to streamline the appointment procedures and to ensure that statutory provisions for temporary judicial appointments are provided for in the relevant ordinances and are consistent among various courts and tribunals.

Miscellaneous Minor Amendments

9. These include minor technical amendments to various ordinances such as -
- (a) repealing the transitional provision in the Official Languages Ordinance (Cap. 5);
 - (b) rectifying an inconsistency, arising as a result of the enactment of the Coroners Ordinance (Cap. 504), in the Births and Deaths Registration Ordinance (Cap. 174) which requires a death report to be sent to the coroner via the Commissioner of Police. The procedure under Cap. 504 is for the report to be sent to the coroner with a copy to the Commissioner of Police at the same time;
 - (c) standardising the level of fine at various levels of courts for similar offences;
 - (d) amending the Chinese equivalents of various terms to improve accuracy; and
 - (e) replacing outdated titles with current titles.

Way Forward

10. Subject to any comments Members may have, we intend to introduce the bill on the proposed amendments into the Legislative Council on 31 March 1999.

Administration Wing
Chief Secretary for Administration's Office
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