

立法會
Legislative Council

LC Paper No. CB(2)895/99-00
(These minutes have been
seen by the Administration)

Ref : CB2/BC/2/99

**Legislative Council
Bills Committee on District Court (Amendment) Bill 1999**

**Minutes of meeting
held on Monday, 22 November 1999 at 4:30 am
in Conference Room A of the Legislative Council Building**

Members Present : Hon Margaret NG (Chairman)
Hon Albert HO Chun-yan
Hon Jasper TSANG Yok-sing, JP
Hon Mrs Miriam LAU Kin-ye, JP
Hon Ambrose LAU Hon-chuen, JP

Members Absent : Hon Ronald ARCULLI, JP
Hon Andrew CHENG Kar-foo

Public Officers Attending : Ms Emma LAU
Deputy Judiciary Administrator

Ms Miranda CHIU
Deputy Director of Administration

Mr David LEUNG
Assistant Judiciary Administrator

Ms Rosanna LAW
Assistant Director of Administration

Mr J D SCOTT
Senior Assistant Law Draftsman

Ms Carmen CHU
Senior Government Counsel

Mr Ryan CHIU
Assistant Secretary (Administration)

Clerk in Attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in Attendance : Mr KAU Kin-wah
Assistant Legal Adviser 6

Mrs Eleanor CHOW
Senior Assistant Secretary (2)7

Action
Column

I. Election of Chairman

Miss Margaret NG was elected Chairman of the Bills Committee.

II. Meeting with the Administration

(LC Paper Nos. LS 10/99-00, CB(2) 420/99-00(03) and (04))

2. The Chairman welcomed representatives of the Administration to the meeting. She said that the Bill should be dealt with as expeditiously as possible because the increase in financial jurisdiction of the District Court (DC) had long been overdue.

Implication of the Bill on resources and procedures

3. Mrs Miriam LAU said that although she did not support all the points raised by the Bar Association of Hong Kong in its submission (LC Paper No. CB(2) 420/99-00(03)), they were valid concerns that the Administration ought to reply formally. She said that she supported in principle the Administration's proposal to increase the financial jurisdictional limits of DC.

4. Referring to paragraphs 14 and 15 of the LegCo Brief, the Chairman pointed out that the creation of three judicial posts and 14 non-judicial posts was based on the previously proposed financial jurisdictional limit of \$300,000, under which the additional caseload was projected to be some 4 800 only. However, the revised projection of 17 000 additional cases to be brought before DC annually as a result of the increase in financial jurisdictional limit to \$600,000 represented a more than 50% increase in caseload compared to that in 1996/97. She also noted that some 10 000 less complex cases were expected to be hived off from DC to the Small Claims Tribunal. She expressed concern over whether DC would be adequately equipped with the necessary manpower and experience to cope with the additional caseload.

5. In response, Deputy Judiciary Administrator (DJA) said that the Administration was conscious of the fact that there should be sufficient resources such as manpower

and facilities to cope with the increase in financial jurisdictional limits of DC. She said that the Judiciary would be tackling the matter from three fronts. DJA outlined them as follows -

(a) Revamp of DC rules

With the increase in financial jurisdictional limits of DC, DC rules would be revamped and modeled on those of the existing High Court. In addition, practice directions on specialised proceedings such as personal injuries would be adopted in DC. The Judiciary had decided to implement the master system in DC whereby the Registry would be headed by a Registrar and assisted by Deputy Registrars who were judicial officers. In the circumstances, they would be able to deal with non-contentious interlocutory cases. Relieving the judges of these duties would enable them to concentrate on more complicated cases. Although the caseload in DC was expected to increase tremendously, cases would be disposed of expeditiously with the implementation of the master system. The Judiciary was confident that with the new set of DC rules which were now under preparation, the cases to be dealt with in DC would be as effective and efficient as they were now being dealt with in the High Court;

(b) Manpower resources

There would be additional resources as well as internal staff redeployment to strengthen manpower resources at all levels to cope with the increase in workload. As mentioned in paragraph 15 of the LegCo Brief, three judicial posts would be created. As regards internal redeployment, the Judiciary was taking a look into the overall resources including, inter alia, existing judicial posts that had not been filled and the effect of the new case management on manpower. In addition, supporting staff would be increased to assist judges to carry out additional caseload. The Judiciary was also looking into ways of streamlining and reengineering some work procedures in the registry. There would be training and development programmes to ensure judges and staff concerned were equipped with the relevant skills to cope with new changes. For instance, civil training was being provided to District Court judges. Consideration would also be given to the formation of a panel of judges specializing in personal injuries and land-related cases; and

(c) Additional physical facilities

There were plans to build a number of additional court rooms to cope with the increase in cases. As construction of these facilities would

Action
Column

take time, transitional arrangement might be made to cope with additional caseload as and when necessary.

6. The Chairman expressed concern about the caseload situation in the High Court following the increase in financial jurisdiction of DC. She pointed out that the number of cases handled by the High Court in 1996 and 1997 were about 20 000 per annum. Since the Administration expected that the proposal would result in an increase of 17 000 cases in DC, she wondered what the High Court would be left with as a result. She suggested that under the circumstances, consideration should be given to transferring High Court judges to DC.

7. DJA said that some DC judges were in fact temporarily appointed as Deputy Judges of the Court of First Instance. She agreed that at present DC handled few cases relating to personal injuries and land and the situation would be very different after the implementation of the proposal. Addressing the Chairman's concern, Assistant Judiciary Administrator (AJA) said that the functions of the Court of First Instance would not be taken over by DC completely. The Court of First Instance would continue to be vested with specific jurisdiction over certain laws such as admiralty, administrative laws, bankruptcy, companies winding up, etc. In addition, there were limits on the amount of the claims for debts and damages that would be dealt with by DC.

8. In response to Mr HO Chun-yan, Senior Assistant Law Draftsman (SALD) said that the role, functions and power of the Registrar of DC were set out in clauses 3, 6, 32, 34 and 39. DJA supplemented that with the implementation of a new set of DC rules, both the Registrar and the Deputy Registrar in DC would be legally qualified judicial officers. As regards the difference between the Registrar of DC and the Registrar of the High Court, AJA said that the functions and duties of the two posts would be similar because the rules of DC would be modeled on the High Court. The Administration undertook to provide a more comprehensive description of the functions of the Registrar in DC.

Adm

9. Noting that a substantial number of cases would be diverted from the High Court to DC under the proposal, the Chairman said that the Bills Committee was actually dealing with the reform of DC. Since it had wide implications, members would need comprehensive background information to decide whether or not to support the proposal. She asked the Administration to provide the following information to facilitate members' consideration -

Adm

- (a) the caseload situation in the Small Claims Tribunal, District Court and High Court respectively, as a result of the increase in financial jurisdictional limit of DC (including existing caseload vis-à-vis anticipated caseload with a breakdown of cases by category);

- (b) the manpower resources to cope with the proposed increase in financial jurisdictional limit (including whether judges of the High Court could be redeployed to DC as a result of transfer of cases to the latter);
- (c) the timetable for implementing various measures to tie in with the proposal (e.g. recruiting and developing qualified judges and judicial officers, providing additional court facilities and revising the rules of DC); and the expected commencement date of the Bill;
- (d) the major differences between the revised rules of DC and the existing rules of the High Court; and
- (e) a formal reply to the submissions from the Hong Kong Bar Association and the Law Society of Hong Kong.

10. The Chairman further asked the Administration whether it agreed with the Bar Association's views that the new jurisdictional limit for personal injuries actions should not come into force until the five steps specified in the first paragraph of page 2 of its submission had been taken. DJA responded that it had been the intention of the Administration that the various measures should be in place in order to tie in with the increased caseload in DC. As regards the new set of rules of DC, SALD said that the draft would be ready within three months.

Adm 11. The Chairman asked whether the Administration could consult the Bills Committee on the draft rules of DC if the drafting was completed before the Bills Committee concluded its deliberations. Mr HO Chun-yan said that it would be better if the Bills Committee could study the rules and the Bill concurrently. Deputy Director of Administration (DD of Adm) responded that it would certainly be helpful to the Administration if members could give views on the draft rules.

Content of the Bill

12. At the invitation of the Chairman, SALD briefed members on the major changes introduced by the Bill. He said that the main purpose of the Bill was to increase the financial jurisdictional limits of DC and to enable DC to function on its own right. There was absolutely no change in substance between the District Court (Amendment) Bill 1996 which lapsed at the end of the 1996-97 legislative session and the present Bill, except the level of financial jurisdictional limits. In terms of drafting style, the Bill followed that of the District Court (Amendment) Bill 1996.

13. The Chairman said that while the Bill was complex, the LegCo Brief was rather sketchy. Making reference to the Trade Marks Bill for which a synopsis outlining clearly the purpose of each clause was prepared by the Administration, she asked whether the same arrangement could be adopted for this Bill to facilitate easy scrutiny.

Action
Column

SALD responded that the Explanatory Memorandum at the end of the Bill was meant to serve the purpose mentioned by the Chairman.

ALA

14. The Chairman instructed the Assistant Legal Adviser to prepare a "map" of the Bill showing the provisions replaced, amended and newly added separately and stating any substantive change. The Assistant Legal Adviser agreed to do so.

15. Referring to the recommendations made by the Working Party under the chairmanship of the then Honorable Mr Justice Kempster in August 1993 (the Kempster Report), Mr TSANG Yok-sing asked about the recommendations that had been adopted by the Bill.

16. DD of Adm responded that the proposal in the Bill was mainly based on the Kempster Report. However, the Administration had revised the proposed financial jurisdictional limits and made other modifications to take into account the changing circumstances since the Kempster Report was published. The differences between the proposals of the Bill and the recommendations of the Kempster Report were as follows -

- (a) The Kempster Report recommended the introduction of a new definition of "action for personal injuries". The Bill provided not only a new definition of "action for personal injuries", but also a definition of "personal injuries";
- (b) The Kempster Report recommended to improve the definition of the role, functions and power of the Registrar of DC, and provide for the protection of the Registrar. The Bill had incorporated the recommendations;
- (c) The Kempster Report suggested to make arrangements for the transfer of cases to DC from the then High Court. The Bill proposed a two way transfer; and
- (d) The Kempster Report suggested to provide a procedural framework in DC more akin to that of the then Supreme Court by revising DC rules on the basis of the then rules of the Supreme Court. Instead of revising the DC Civil Procedure (General) Rules and the DC Civil Procedure (Forms) Rules as proposed by the Kempster Report, the Administration would also review the complete set of DC rules.

III. Date of next meeting

17. The Chairman suggested and members agreed that the Hong Kong Bar Association and the Law Society of Hong Kong should be invited to appear before the Bills Committee at a future meeting if necessary. Members also agreed that the next

Action
Column

meeting would be held on 21 December 1999 at 2:30 pm so as to allow adequate time for the Administration to prepare the relevant paper.

18. The meeting ended at 5:45 pm.

Legislative Council Secretariat
18 January 2000