

立法會
Legislative Council

LC Paper No. CB(2)366/99-00

Ref : CB2/PL/AJLS

Legislative Council
Panel on Administration of Justice and Legal Services

Minutes of meeting
held on Thursday, 7 October 1999 at 9:40 am
in Conference Room B of the Legislative Council Building

Members Present : Hon Margaret NG (Chairman)
Hon Jasper TSANG Yok-sing, JP (Deputy Chairman)
Hon Martin LEE Chu-ming, SC, JP
Hon Ambrose LAU Hon-chuen, JP
Hon Mrs Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP

Members Absent : Hon Albert HO Chun-yan
Hon James TO Kun-sun

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

Staff in Attendance : Mrs Justina LAM
Assistant Secretary General 2

Mr Paul WOO
Senior Assistant Secretary (2)3

I. Election of Chairman and Deputy Chairman

In accordance with the procedures for election of Chairman and Deputy Chairman set out in Appendix IV of the House Rules, Miss Margaret NG and Mr TSANG Yok-sing were elected Chairman and Deputy Chairman of the Panel respectively.

II. Withdrawal from membership

2. The Chairman informed members that Mr Andrew CHENG Kar-foo had subsequently decided not to join the Panel for the 1999-2000 session.

III. Schedule of meetings for the 1999-2000 session

3. Members decided that future regular meetings of the Panel for the 1999-2000 session would be held at 4:30 pm on the third Tuesday of each month. The next Panel meeting would be held on Tuesday, 19 October 1999 at 4:30 pm.

IV. Discussion items for next meeting

4. Members went through the list of issues to be considered by the Panel in Appendix V to LC Paper No. CB(2)4/99-00 which had been circulated to members on 29 September 1999. After discussion, members agreed that the following items should be discussed at the next Panel meeting on 19 October 1999 -

- (a) Year 2000 (Y2K) compliance exercise in Government, Government-funded and Government-regulated organizations

The Secretary for Justice, the Director of Legal Aid and the Judiciary Administrator would be invited to brief the Panel on the contingency plans relating to their Y2K compliance projects to cope with emergency situations; and

- (b) Legal aid policy

The Administration would be requested to provide a paper on legal aid policy including an explanation of the criteria for granting legal aid to pursue criminal and civil proceedings.

Regarding item (b) above, the Chairman expressed concern about a recent case concerning the refusal of the Director of Legal Aid to grant legal aid to an Indian mother to seek judicial review of the Director of Immigration's decision on a right of abode case. She said that whilst she appreciated that it would not be appropriate for the Director of Legal Aid to discuss individual cases, she had asked the Clerk to request the Administration to provide some background information on the case to

facilitate discussion of policy relating to provision of legal aid in cases of similar nature.

V. Any other business

Legal aid for illegal immigrants with right of abode claims

5. The Chairman referred to a recent case in which two illegal immigrants from the Mainland claiming right of abode in the Hong Kong Special Administrative Region (HKSAR) were removed, pending an application to Court for an injunction order against the removal order. The Chairman questioned whether the way the case had been handled departed from existing policy and practice on removal of legal aid applicants. She also expressed concern about the fact that the repatriation of the two illegal immigrants prior to the hearing had rendered the Court's judgment useless and queried whether this would amount to contempt of court.

6. In response to Mr Martin LEE, the Chairman said that in connection with the Supreme Court (Amendment) Bill 1997 concerning application for habeas corpus, the then Attorney General had assured the LegCo that an applicant would not be removed without prior notification to the solicitors acting for the applicant. The understanding was that an applicant for legal aid would not be repatriated pending consideration of the application. In response to Mrs Miriam LAU, the Chairman instructed the Clerk to circulate the relevant Hansard for members' information.

7. Ms Emily LAU said that the case in question was raised by non-government organizations and briefly discussed by the Panel on Home Affairs in the context of the HKSAR's report in the light of the International Covenant on Civil and Political Rights. The Administration had been requested to provide a paper on the case for further discussion by the Panel on 12 October 1999.

8. Members agreed to consider whether the above subject should be discussed at a future meeting, in the light of the discussions of the Panel on Home Affairs at its meeting to be held on 12 October 1999. The Chairman suggested that the relevant paper and extract of notes of discussion of the Panel on Home Affairs be made available to this Panel for consideration at its next meeting.

Study on an independent legal aid authority

9. Ms Emily LAU suggested and members agreed that the matter should be discussed in detail by the Panel at a future meeting. Members noted that the Director of Administration was expected to update members on the latest development of the matter at the policy briefing session to be held on 13 October 1999 for this Panel.

Empowering provisions to make rules under the Legal Practitioners Ordinance (Cap. 159)

10. Members noted that at the meeting on 27 May 1999 when the Legal Practitioners (Amendment) Bill 1999 was discussed, the Bar Association had advised that section 30(4) of the Legal Practitioners Ordinance would be repealed with the passage of the Bill. The Association had proposed to the Administration that the new section 72AA should clearly delineate what the Chief Justice and the Bar Council were empowered to do in relation to making of rules. At the suggestion of the Chairman, members agreed that the item of "Legal Practitioners (Fees)(Amendment) Rule 1998" should be deleted from the list of issues to be considered by the Panel, as the matter would be considered by the Bills Committee which had been formed to study the Bill.

11. The meeting ended at 10:05 am.

Legislative Council Secretariat
22 October 1999