

LC Paper No. CB(2) 2517 /05-06(05)

Translation

LEGCO QUESTION No. 10
(Written Reply)

Asked by : Hon Ma Lik

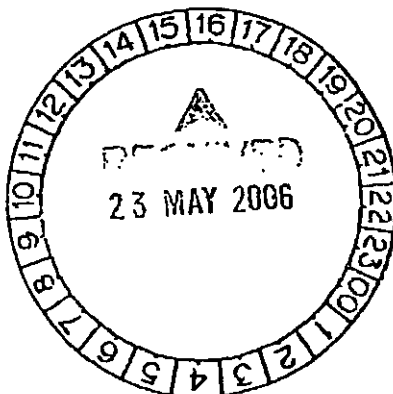
Date of meeting : 24 May 2006

Replied by : Chief Secretary
for Administration

Question:

It has been reported that a recorder of the Court of First Instance of the High Court and a deputy District Judge have joined a local political party as founding members. In this connection, will the Government inform this Council if it knows:

- (a) whether the rule in the existing Guide to Judicial Conduct that judges should refrain from membership in or association with political organizations is applicable to part-time judges; if so, how the Judiciary will deal with those judges who fail to comply; if not, of the reasons for that;
- (b) whether the appointment letters currently issued respectively to full-time and part-time judges have stipulations on judges joining political organizations and engaging in political activities; if so, of the details;
- (c) of the current channels through which the public and court users can know whether individual judges are members of or associated with political organizations; and
- (d) whether the Judiciary will, before appointing any person to be a judge, require him to make a statement pledging that he will refrain from membership in or association with political organizations while in service?



Reply:

President,

The issues raised in the question are matters for the Judiciary. Based on the information provided by the Judiciary, we now provide the following response.

- (a) The Judiciary reiterates that judicial independence and impartiality are of course of fundamental importance. There are well established legal principles laid down in case law, which apply to both full time and part time judges, as to when a judge should disqualify himself from sitting. The circumstances include those giving rise to apparent bias. The test is whether the circumstances are such as would lead a reasonable, fair-minded and well-informed observer to conclude that there is a real possibility that the judge would be biased.

According to the Judiciary, based on the above well established legal principles, and having regard to the fact that the full time occupation of part time judges is practising in the legal profession, the guidance in the Guide to Judicial Conduct that judges should refrain from membership in or association with political organizations does not apply to part time judges.

- (b) The appointment letters issued to full time and part time judges have no stipulation on judges joining political organizations and engaging in political activities.
- (c) The Judiciary does not collect personal information on whether individual judges are members of or associated with political organizations.
- (d) All full time judges are expected to comply with the Guide to Judicial Conduct, which includes the guidance on refraining from membership in or association with political organizations or activities.