

Bills Committee on Competition Bill

**List of follow-up actions arising from the discussion
at the meeting on 19 March 2012**

At the meeting on 19 March 2012, the Administration was requested to take the following actions –

Clause 5

- (1) consider amending clause 5 in response to the following views expressed at the meeting:
 - (i) Dr Margaret NG's view that it was inappropriate to classify Hong Kong's courts, such as the Court of Final Appeal, as statutory bodies, and as such the Bill should expressly state that it would not apply to the Judiciary, instead of exempting courts as statutory bodies;
 - (ii) Dr Margaret NG's view that to ensure that statutory bodies and private undertakings would be fairly treated in the same way, the criterion set out in clause 31 for granting the latter's conduct exemption on public policy grounds, namely, that "there are exceptional and compelling reasons of public policy for doing so", should also apply to the exemption of statutory bodies and be incorporated in clause 5; and
 - (iii) the legal adviser's view that there was a need to more clearly stipulate the Chief Executive in Council's power under clause 5(1)(b) to, by regulation, disapply the provisions referred to in clause 3(1). For example, by setting out the above highlighted criterion in clause 31 for making this kind of regulation, as well as the kinds of situations that would be contemplated for invoking this power (with reference to the Administration's reply so stated in paragraph 4 of LC Paper No. CB(1)1034/10-11(05);

Clause 176

- (2) refine the expression "before that date" in clause 176(5)(b) to clarify which of the two dates mentioned in clause 176(5) this expression referred to;

Schedule 9

(3) introduce the following amendments to Schedule 9:

- (i) as the English version of the phrase "在生效日期前已發生" in section 3(2)(a) and the phrase "在生效日期前已作出" in section 3(3)(a) was the same, amend the Chinese version of either section 3(2)(a) or section 3(3)(a) to achieve consistency between these two sections;
- (ii) as the English version of the phrase "在生效日期前已發生" in section 4(2)(a) and the phrase "在生效日期前已作出" in section 4(3)(a) was the same, amend the Chinese version of either section 4(2)(a) or section 4(3)(a) to achieve consistency between these two sections;
- (iii) as the English version of the phrase "制定" in section 4(2)(b) and the phrase "訂立" at the end of section 4(2) was similar, amend the Chinese version of either section 4(2)(b) or section 4(2) to achieve consistency between these two sections;
- (iv) as the English version of the phrase "制定" in section 4(3)(b) and the phrase "訂立" at the end of section 4(3) was similar, amend the Chinese version of either section 4(3)(b) or section 4(3) to achieve consistency between these two sections; and
- (v) amend the phrase "而《原有條例》的條文就該調查而適用" in the Chinese text of section 4(3) to "而《原有條例》的條文就該調查而繼續適用", so as to more accurately reflect the meaning of its English version "the provisions of that pre-amended Ordinance continue to apply".