



**HONG KONG BAR ASSOCIATION**

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(Our ref: GC/fk/082)

30<sup>th</sup> October 2015

Ms. Wendy Cheung  
for Judiciary Administrator  
Judiciary  
Lower Ground 2<sup>nd</sup> Floor,  
High Court Building,  
38 Queensway, Hong Kong.

Dear

*Wendy,*

**Consultation Paper on the Draft Provisions in the Judiciary  
(Five-day Week) (Miscellaneous Amendments) Bill 2015**

I refer to your letter of 20<sup>th</sup> October 2015 regarding the paper on the Judiciary's responses to the Hong Kong Bar Association's comments in May 2015.

The Bar Council has resolved at its meeting held on 29<sup>th</sup> October 2015 that the Bar has no further comments on the proposed legislative amendments on condition that the amendments be tried out for six months after full implementation and reviewed thereafter.

Yours sincerely,

*Winnie Tam*

Winnie Tam SC  
Chairman

**香港大律師公會**

香港金鐘道三十八號高等法院低層二樓

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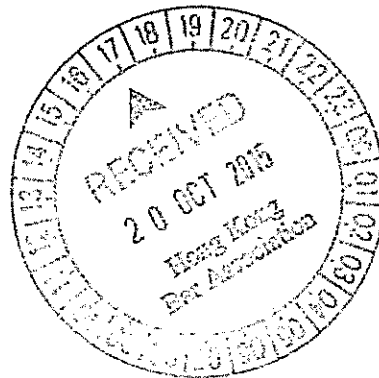
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Judiciary Administration

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本函檔號 Our Ref.: JUD CR 5-40/2 Pt. 7  
來函檔號 Your Ref.:

20 October 2015

Ms Winnie Tam, SC  
Chairman  
The Hong Kong Bar Association  
LG2, High Court Building,  
38 Queensway,  
Hong Kong



Dear Chairman,

**Consultation Paper on the Draft Provisions in the Judiciary  
(Five-day Week) (Miscellaneous Amendments) Bill 2015**

I refer to your letter of 15 May 2015 which sets out the comments of the Hong Kong Bar Association (“HKBA’s comments”) on our “Consultation Paper on the Draft Provisions in the Judiciary (Five-day Week) (Miscellaneous Amendments) Bill 2015”.

2. We enclose herewith a paper on the Judiciary’s responses to address the few outstanding concerns set out in HKBA’s comments. We believe that our responses have addressed the Bar Association’s concerns. I should be grateful for the Bar Association’s confirmation of the agreement to our proposed legislative amendments by 30 October 2015. If the Bar Association has any further comments, please also let us know by the same date.

3. It is our intention to consult the relevant Legislative Council panel in November 2015, if possible.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Wendy Cheung', written in a cursive style.

(Ms Wendy Cheung)  
for Judiciary Administrator

Encl.

**Consultation Paper on the Draft Provisions in the Judiciary  
(Five-day Week) (Miscellaneous Amendments) Bill 2015**

**Judiciary's Responses to  
the Hong Kong Bar Association's Comments in May 2015**

**Purpose**

In response to the Judiciary's consultation paper on the draft provisions in the Judiciary (Five-day Week) (Miscellaneous Amendments) Bill 2015 ("the Bill") issued on 10 April 2015, the Hong Kong Bar Association ("HKBA") sent their comments to the Judiciary in a letter dated 15 May 2015. This paper sets out the Judiciary's responses to HKBA's comments.

**Background**

2. The Judiciary intends to launch the final (or third) phase of a five-day week in the Judiciary, after implementation of the first two phases in 2006 and 2007. Under this final phase, other than fresh remand cases, urgent court sittings and admission ceremonies etc., the court's registries, accounts offices and other offices with a public interface will generally be closed on Saturdays. Some of these changes would require legislative amendments.

3. In April 2013, the Judiciary consulted the HKBA, among other stakeholders, on the proposed arrangements for the final phase of the five-day week. HKBA indicated reservations about some of the proposed arrangements in its letter to the Judiciary dated 17 June 2013. The Judiciary has since then been discussing with the HKBA and put forward some new arrangements to ease HKBA's concern in the Judiciary's letter to the HKBA dated 13 May 2014 (Appendix I). There have been some further exchanges between the Judiciary and the HKBA (please see Appendices II and III). The HKBA then indicated in its letter dated 18 July 2014 to the Judiciary (Appendix IV) that the HKBA had resolved to accept the Judiciary's proposed arrangements put forward in its letter of 11 July 2014 at Appendix III, on the understanding that the proposed arrangements would initially be introduced in the form of a pilot scheme for a period of six months, after which there will be a review to see what further improvements would be required. (Please also refer to paragraphs 9 and 10 below.)

4. On the basis of the above, the Judiciary has proceeded to prepare the Bill. A paper with detailed proposed legislative amendments was issued on 10 April 2015 for consultation with the HKBA and other relevant stakeholders. In its letter dated 15 May 2015 ("HKBA's latest letter"), the HKBA indicated that it remained concerned with the following issues :

- (a) apparent inequality and unfairness;
- (b) possible further legislative changes needed to enable the opening of court offices on Saturdays; and
- (c) potential discrimination relating to bail.

The Judiciary will set out its responses and proposed changes below.

### **Apparent Inequality and Unfairness**

5. In paragraph 9 of HKBA's latest letter, the HKBA reiterated its earlier concern that the Bill did not contain any proposals to prevent inequality and unfairness to those using the court offices on Mondays to Fridays. For example, as stated in paragraph 8(a) of the HKBA's comments on the consultation paper issued by the Judiciary in 2006 viz :

*"....Often when bail conditions are imposed or varied by the requiring additional cash bail, the defendant is given time to raise the money and deposit it with the court's accounts office the following day. Closing the accounts offices on Saturday mornings means that defendants whose cash bail are increased on Fridays have 2 extra days to raise the money than those whose cash bail are increased on other week days. This disparity is, with respect, unacceptable."*

6. The Judiciary notes that this has been HKBA's concern since 2006. However, the Judiciary does not fully understand the HKBA's argument. Criminal courts do not normally prescribe a time frame for defendants to satisfy additional bail conditions. A defendant may satisfy the additional conditions any time after the order so long as the Accounts Office is open.

7. In any event, since it has all along been the practice that the court offices do not open 24 hours seven days a week, the practicality considerations have to be taken into account all the time. As such, a defendant currently cannot fulfill his/her additional conditions on Saturday afternoons, Sundays and other public holidays etc. The Judiciary does not therefore appreciate how the

slight extension of such practicality considerations to cover Saturday mornings as well would cause concern as a matter of principle.

8. Moreover, any apparent inequality and unfairness relating to bail may be addressed under the mechanism of Part 1A (Bail) of the Criminal Procedure Ordinance (Cap. 221). In particular, section 9N(a) provides that in any bail proceedings, the court may make such inquiries of and concerning the person being the subject of those proceedings as the court considers desirable. In other words, the court takes into account the circumstances, including any practical considerations, relating to each case before they decide, among others, whether to impose a deadline for bail conditions/additional conditions etc.

9. Notwithstanding the above, the Judiciary has put forward some new arrangements with a view to providing administrative assistance to address some practicality considerations to ease the HKBA's concern. The proposed arrangements are set out in Annex C of Appendix I. As pointed out in paragraph 3 above, the HKBA has already agreed to try out the proposed arrangements for six months after the full implementation of the five-day week in the Judiciary. The proposed arrangements are as follows :

- (a) For the High Court and District Court : to cater for any possible bail payments on Saturday mornings after the full implementation of a five-day week, a bail applicant may contact the relevant registry not later than 5:00 pm on a Friday if he/she wants to make a bail payment (including other steps) on the following Saturday morning. Upon receiving such a request, the respective registry and accounts office will make arrangement for staff to be on duty to handle such applications, and where necessary, arrangement will also be made for a Master of the High Court/District Court to attend urgent matters related to the approval of surety; and
- (b) For Magistrates' Courts : currently, the seven Magistrates' Courts form three groupings to take turn to handle fresh remand cases on Saturdays. This grouping of courts will continue to operate upon full implementation of a five-day week, i.e. three Magistrates' Courts (together with the respective registries and accounts offices) would operate on each Saturday morning. Similar to the proposed arrangements for the High Court and District Court, a bail applicant would also be required to contact the relevant staff in advance so that he/she can be told which Magistrates Courts to approach for making payment. Where there is surety which needs to be approved, the Magistrate of the duty Magistrates' Court concerned can approve the surety accordingly.

10. At that time, it was further agreed between the Judiciary and HKBA that the Judiciary would monitor the situation closely during this trial period after which the Judiciary will review to see if any adjustment or refinement is necessary.

11. With the proposed arrangements in paragraph 9 above, a litigant who intends to satisfy his bail conditions on a Saturday morning may as at present do so by notifying the relevant registry before 5 pm of the preceding Friday. As such, the practical differences between the present and future arrangements will be rather minimal.

12. In short, the Judiciary believes that our proposed arrangements above should have addressed HKBA's concern about any apparent inequality or unfairness.

### **Opening of Court Offices on Saturdays**

13. In paragraph 10 of HKBA's latest letter, the HKBA considers that the Bill does not contain any proposals to keep open the registries and/or account offices of those courts performing the services listed in paragraphs 7(a) to (d) of the Judiciary's consultation paper issued in April 2015<sup>1</sup>, and in particular, those Magistrates' Courts that would remain open on Saturdays to deal with fresh remand cases which have to be brought before the court in order to satisfy the 48-hour requirement in section 52 of the Police Force Ordinance (Cap. 232) and section 10A(6) of the Independent Commission Against Corruption Ordinance

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<sup>1</sup> The Judiciary indicated in its consultation paper issued in April 2015 that the full implementation of the five-day week will not affect the following services –

- (a) fresh remand cases at Magistrates' Courts, which have to be brought before the court in order to satisfy the 48-hour requirement under s.52(1) of the Police Force Ordinance (Cap. 232);
- (b) urgent applications made to various levels of court, which have to be dealt with outside office hours including Saturdays;
- (c) urgent applications for enforcement of judgments, which have to be dealt with outside office hours including Saturdays;
- (d) urgent court sittings, which have to be fixed outside office hours including Saturdays; and
- (e) admission ceremonies, which should continue to be held on Saturdays.

(Cap. 204). The HKBA considers that the Bill has not addressed the problem of how an accused person who is released by such Magistrates' Court on bail to a return date and/or a surety would be able to pay the cash bail and comply with any other bail conditions if the registry and accounts office of the Magistrates' Court is closed.

14. The proposed future arrangements, as agreed by the HKBA in July 2014, are set out in paragraph 9(b) above. Given HKBA's views in paragraph 13 above, the Judiciary has examined in greater detail whether some further legislative changes should be required to give effect to the proposed arrangements.

#### *High Court and District Court*

15. At present, the days when the court offices are closed in the High Court and District Court are set out in Order 64, rule 7 of the Rules of the High Court (Cap. 4A) and Order 64, rule 1 of the Rules of the District Court (Cap. 336H) respectively. These rules also empower the Chief Justice to give directions on the opening hours of these court offices from time to time.

16. In the light of HKBA's concerns, the Judiciary has carefully considered the matter again in consultation with the Department of Justice ("DoJ"). There is at present no statutory provision under the High Court Ordinance (Cap. 4), the District Court Ordinance (Cap. 336), Cap. 4A and Cap. 336H that states clearly that the relevant court offices shall be open during the hours of the sittings of the court concerned. For the sake of certainty and clarity, the Judiciary suggests that specific legislative amendments be introduced to Order 64, rule 7 of Cap. 4A and Order 64, rule 1 of Cap. 336H to empower the Chief Justice to open the court offices on Saturdays as necessary. The proposed changes are highlighted in yellow on Appendix V.

#### *Magistrates' Courts*

17. The situation for the Magistrates' Courts is however different. At present, there is no statutory provision governing the opening days of the Magistrates' Courts. Neither is there anything in the existing legislation which prohibits the offices of the magistrates' courts from opening on any day. In short, it is legally not necessary to introduce any legislative amendments to deal with the opening of the Magistrates' Courts or their offices simply because of the implementation of the five-day week arrangements in the Judiciary. The arrangements for operation on Saturdays that have already been agreed by the HKBA in 2014 (see paragraph 9(b) above), which are administrative in nature, would be duly implemented by the Judiciary by administrative means.



### Perceived Discrimination relating to Bail

18. In paragraph 11 of HKBA's latest letter, the HKBA takes the view that the proposed amendment to section 71(1A)(b) of the Interpretation and General Clauses Ordinance (Cap. 1), when applied to the Magistrates' Courts, is that cash bail granted on Saturdays is considered to be paid when paid on the next following Monday. According to the interpretation of the HKBA, this is, inter alia, wholly artificial and will discriminate against those who are granted cash bail for the same offence on Mondays to Fridays and will put pressure on the Magistrates to impose bail conditions which they would not otherwise impose because it effectively means that a Magistrate who decides to grant cash bail on a Saturday would in effect be granting bail on a recognizance (i.e. a formal undertaking or promise) to pay the cash bail on the next following Monday. The accused person would only be in breach of his bail condition if he refuses to pay the cash bail the next following Monday but he would be free on the Saturday and Sunday.

19. The Judiciary should first clarify that section 71(1) of Cap. 1 currently applies to the computation of time "for the purposes of any Ordinance". The proposed section 71(1A) of Cap. 1 in the Bill applies to "the computation", meaning the computation of time for the purposes of any Ordinance. In other words, section 71 currently applies and will apply to a statutory period only. However, the period to comply with a bail condition is not provided by an Ordinance, but by authority of a Magistrate. Section 71 therefore does not and will not apply in the first place<sup>2</sup>.

20. Moreover, as pointed out in paragraph 8 above, any apparent inequality and unfairness relating to bail may be addressed under the mechanism of Part 1A (Bail) of Cap. 221.

21. In any case, to avoid any possible confusion particularly in the light of HKBA's comments above, the Judiciary suggests amending the proposed section 71(1A) by adding "mentioned in subsection (1)" after the words "If the computation". The proposed changes are highlighted in yellow on the marked-up mode of the draft legislative amendments at Appendix V.

<sup>2</sup> This view is supported by *Kwoon Chung Motors Company Limited v Commissioner for Transport & Anor* [2011] HKCU 1972, in which it was said "s. 71(1)(a) of Cap 1 is only applicable to the construction of Ordinances. Condition 1 is not part of an Ordinance nor is it provided by any Ordinances. This statutory section simply has no application to its proper construction."

## **Way Forward**

22. The Judiciary hopes that the above responses and proposed further legislative changes have addressed HKBA's concerns. If the HKBA has any further views, they may let the Judiciary know by **30 October 2015**. Unless otherwise specified, HKBA's comments will be treated as public information and may be published in the future.

**Judiciary Administration**  
**October 2015**

香港司法機構  
司法機構政務處



Appendix I

JUDICIARY ADMINISTRATION  
JUDICIARY  
HONG KONG

本函檔號 OUR REF:

來函檔號 YOUR REF:

電話 TEL:

13<sup>th</sup> May 2014

Mr Paul Shieh, SC  
The Chairman  
The Hong Kong Bar Association  
LG2, High Court  
38 Queensway, Hong Kong

Dear Mr Shieh,

Five-Day Week and Related Matters

The purpose of this letter is to address the following two issues:

- (a) proposed adjustment to current arrangements for the resumption of judicial proceedings following the lowering of gale and rainstorm warnings after 11:00 am on a Friday; and
- (b) further proposals on court and registry support on Saturday mornings if and when the Judiciary fully implements five-day week under the final phase i.e. Phase III.

Resumption of Judicial Proceedings Following the Lowering of Gale and Rainstorm Warnings after 11:00 am on a Friday

2. You may recall that in June 2013, you were consulted whether, in the event of a gale / rainstorm warning being lowered after 11:00 am on a Friday, the judicial proceedings having been adjourned earlier at all court levels (except the Magistrates' Courts) should be resumed on Monday (not being a public holiday) instead of the following Saturday (as is the case under the current arrangement). Please refer to my letter dated 6<sup>th</sup> June 2013 at Annex A.

3. As the Judiciary is now actively considering the full implementation of five-day week under the final phase (i.e. Phase III), we have decided that the proposal as set out in para. 2 should be held in abeyance and that the implementation of the said proposal be put off to tie in with Phase III of the Judiciary's Five-Day Week plan. This would be tidier in arrangement and easier to manage from the public communication point of view.

Further Proposals for Full Implementation of Five-Day Week in the Judiciary under Phase III

4. A paper on the proposed implementation of Phase III of five-day week in the Judiciary was issued for consultation with stakeholders on 18<sup>th</sup> April 2013 (Annex B). After considering comments received, we have developed further proposals in this regard and a paper detailing them is attached at Annex C for your comments. As you may notice, the part on "handling of bail payments and follow-up matters" is specifically set out to address the comments you made in your letter dated 17<sup>th</sup> June 2013.

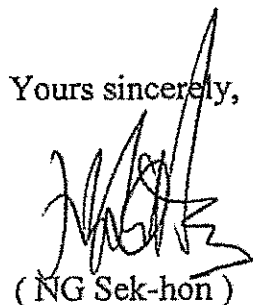
5. Please also note that the proposal mentioned in paragraphs 2 and 3 above will be effected if and when Phase III is to be implemented. The proposed arrangements then applicable to the Magistrates' Courts are detailed in paragraph 14 of the paper at Annex C.

Advice Sought

6. I should be grateful if you could:

- (a) take note of the latest position regarding resumption of judicial proceedings following the lowering of a gale / rainstorm warning after 11:00 am of a Friday (paragraph 3 above); and
- (b) comment, by 30<sup>th</sup> May, 2014, on the detailed proposals as set out at Annex C for the full implementation of five-day-week in the Judiciary under Phase III (paragraph 4 above).

Yours sincerely,



(NG Sek-hon)

for Judiciary Administrator

香港司法機構  
司法機構政務處



Annex A  
JUDICIARY ADMINISTRATION  
JUDICIARY  
HONG KONG

本函檔號 OUR REF: JUD ADM 1-90/3/1

來函檔號 YOUR REF:

電話 TEL: 2825 4211

6 June 2013

Ms Dora Chan  
Administrator  
Hong Kong Bar Association  
LG2, High Court Building  
38 Queensway  
Hong Kong

Dear Ms Chan,

**Resumption of judicial proceedings after the lowering of gale and  
rainstorm warnings**

I write to consult you on an adjustment proposed to the current arrangements for the resumption of judicial proceedings after the lowering of gale and rainstorm warnings.

**Current Practice for Saturdays**

2. Currently, it is our general practice that, except for the Magistrates' Courts, there are no judicial proceedings set down for hearing on Saturdays. There are however circumstances where some judges and judicial officers may conduct judicial proceedings on Saturdays but these are more of an exceptional nature. However, the current arrangements on resumption of judicial proceedings, as detailed in paras 3 and 4 below, are not fully consistent with the above-stated position.

### Current Resumption Arrangements

3. The current arrangements on resumption of judicial proceedings are:

- (a) if the gale or rainstorm warning signal is lowered or cancelled at or before 6:00 am on a whole working day (i.e. Monday to Friday) and on Saturday, all adjourned proceedings for the previous day(s), if any, will be resumed at 9:30 am;
- (b) if the gale or rainstorm warning signal is lowered or cancelled between 6:00 am and 11:00 am or at 11:00 am on a whole working day other than a Saturday (i.e. Monday to Friday), all adjourned proceedings for the morning and the previous day(s), if any, will be resumed at 2:30 pm;
- (c) if the gale or rainstorm warning signal is lowered or cancelled after 11:00 am on a whole working day (i.e. Monday to Friday), all adjourned proceedings for that day and the previous day(s), if any, will be resumed at 9:30 am the next day (including a Saturday), which is not a public holiday;
- (d) if the gale or rainstorm warning signal is lowered or cancelled after 6:00 am on a Saturday, all adjourned proceedings for the morning and the previous days(s), if any, will be resumed at 9:30 am the next day, which is not a public holiday.

4. In accordance with paragraph 3(c) above, if a typhoon or rainstorm warning is lowered after 11 am on a Friday, hearings shall be resumed on the following Saturday (being the next day, which is not a public holiday) and a Chief Justice (CJ)'s Resumption Order will need to be issued in pursuance of section 6 of Chapter 62. Where such situations materialize, experience shows that both listing judges for criminal cases and civil cases, who would still be available on Saturday (not a public holiday), would deal with the judicial proceedings which have then been adjourned. The listing judges would, as a matter of general practice, further adjourn the hearing to the following Monday (not a public holiday) before the same court. As far as criminal trials with juries are concerned, unless directions have previously been given, the trial judge would be available on the Saturday to deal with any matters arising, including the adjournment of the case to Monday.

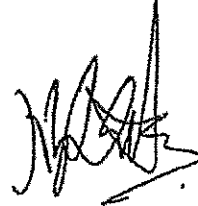
Proposed change

5. We are now considering the feasibility of inviting the CJ to consider exercising his discretionary power under section 6(1) of Chapter 62 by ordering that, when the gale warning signal is lowered after 11 am on a Friday, the resumption of any proceedings adjourned for all court levels (with the exception of Magistrates' Courts) shall be resumed on Monday (not a public holiday) instead of Saturday. It follows that any proceedings that may be resumed earlier for all court levels (except Magistrates' Courts) will then have to be covered by a separate CJ's Resumption Order. As can be seen, such a proposed change would tidy up the position along the line as stated in paragraph 2 above.

6. The Magistrates' Courts are to be treated differently in view of fresh remand cases at the Magistrates' Courts, which have to be brought before the Court in order to satisfy the 48-hour requirement under section 52(1) of the Police Force Ordinance, Chapter 232. This present arrangement of having hearings at selected Magistrates' Courts on Saturdays will continue notwithstanding the change proposed in para 5 above.

7. I should be grateful for your views/comments on the proposed change outlined in paragraph 5 above. Your reply by 20 June 2013 will be much appreciated.

Yours sincerely,



(NG Sek-hon)  
for Judiciary Administrator

c.c. SJE(Adm)(on file)  
CJE(SJ)1

## **Consultation Paper on the Proposed Implementation of Phase III of a Five-day Week for the Judiciary**

### **PURPOSE**

The purpose of this paper is to invite comments on the proposed implementation of Phase III of a five-day week in the Judiciary from the legal profession and other court users.

### **BACKGROUND**

#### **The Administration's Policy Initiative**

2. In January 2006, the Chief Executive announced the setting up of a working group to examine the proposal and implementation details of introducing a five-day week in the Government with effect from 1 July 2006. To ensure that quality services will continue to be delivered to the community, this policy initiative is governed by four basic principles –

- (a) no additional staffing resources;
- (b) no reduction in the conditioned hours of service of individual staff;
- (c) no reduction in emergency services; and
- (d) while in general all offices will cease operation on Saturdays, a limited number of essential counter services may continue to be provided on Saturday.

#### **Five-day Week in the Judiciary**

3. In April 2006, having regard to the policy initiative proposed by the Administration and that Judiciary Administration staff are essentially civil servants, the Chief Justice decided in principle to adopt a five-day week for the Judiciary. This has been/will be implemented in a phased manner –



- (a) Phase I commenced on 1 July 2006. A five-day week applies to court sittings (generally no sittings are listed on Saturdays with exception of some special hearings and a Saturday sitting roster arrangement has been introduced in the magistrates' courts to deal with fresh remand cases) and back offices which have no interface with members of the public;
- (b) Phase II commenced on 1 January 2007. The services covered are those which have a public interface but the switch to a 5-day week entails administrative arrangements rather than legislative amendments, e.g. Resource Centre for Unrepresented Litigants, Press and Public Relations Office, Libraries in the Court of Final Appeal and the District Court. The original intention was to close the High Court Library on Saturdays (the average usage was about 40 users on Saturdays), but having regard to the views of the Bar Association and the Law Society, the High Court Library has been kept open; and
- (c) Phase III covers services with a public interface where the implementation of a five-day week will require legislative amendments to primary and/or subsidiary legislation. These include Court Registries and general offices of Magistrates' Courts; Accounts Offices; Bailiffs' Offices; Probate Registry; and Oaths and Declarations Office.

#### **Present Position**

4. Since July 2006, Judges and Judicial Officers have been enjoying a five-day week and not been required to work on alternate Saturdays.

5. As at 1 January 2013, there are about 1,490 full-time support staff in the Judiciary (both civil service and non-civil service staff), of which close to 870 (i.e. 58%) are working on various five-day week patterns. The remaining 620 (i.e. 42%) staff members or so are yet to enjoy a five-day week.

## **PROPOSED IMPLEMENTATION OF PHASE III**

6. We consider it appropriate at this juncture to pursue the implementation of Phase III, the implications of which fall within three areas, namely, policy, operations and legal.

### **Policy Implications**

7. The implementation of Phase III is in line with the Judiciary's policy to implement a five-day week for the Judiciary in a phased manner. A five-day week for the Judiciary, however, should not affect the following services –

- (a) fresh remand cases at Magistrates' Courts, which have to be brought before the court in order to satisfy the 48-hour requirement under s.52(1) of the Police Force Ordinance;
- (b) urgent applications made to various levels of court, which have to be dealt with outside office hours including Saturdays;
- (c) urgent applications for enforcement of judgments, which have to be dealt with outside office hours including Saturdays;
- (d) urgent court sittings, which have to be fixed outside office hours including Saturdays;
- (e) admission ceremonies, which should continue to be held on Saturdays.

### **Operations Implications**

8. The operations implications are set out below –

#### ***(a) Offices***

9. Generally speaking, the current opening hours of those offices which are now open on Saturdays are 38 hours per week, i.e. from 09:00 to 13:00 and 14:00 to 17:00 from Mondays to Fridays; and from 09:00 to 12:00 on Saturdays.

10. Under a five-day week pattern, we propose to revise the opening hours of court registries, account offices and other offices providing services to court users and members of the public, i.e. from 08:45 to 13:00 and 14:00 to 17:30 from Mondays to Fridays. The offices affected are as follows -

- (a) Registry and Accounts Office of the Court of Final Appeal;
- (b) High Court Registry;
- (c) Civil & Criminal Registry and Appeals Registry of the Clerk of Court's Office;
- (d) Probate Registry;
- (e) Accounts Office of the High Court;
- (f) Registry and Accounts Office of the District Court;
- (g) Registry and Accounts Office of the Family Court;
- (h) Registry and Accounts Office of the Small Claims Tribunal ;
- (i) Registry and Accounts Office of the Lands Tribunal;
- (j) Registry and Accounts Office of the Labour Tribunal;
- (k) Registry of the Obscene Articles Tribunal;
- (l) Registry of the Coroner's Court;
- (m) Registries and Accounts Offices of the Magistrates' Courts;
- (n) General Offices of the Bailiff Section; and
- (o) General Office (Certification and Translation) of the Court Language Section.

11. Upon implementation of Phase III of a five-day week, the aggregate opening hours of the above offices will be increased from 38 hours by 45 minutes to 38 hours 45 minutes.

***(b) High Court Library***

12. The current opening hours of the High Court Library are from 09:00 to 17:30 on Mondays, Wednesdays and Fridays; from 09:00 to 18:00 on Tuesdays and Thursdays; and from 09:00 to 12:00 on Saturdays. For the implementation of Phase III of a five-day week, we propose to change the opening hours of the High Court Library to 08:45 – 18:00 from Mondays to Fridays (the aggregate opening hours to be changed from 46.5 hours per week to 46.25 hours per week); and to close the High Court Library on Saturdays. It is noted that the daily attendance of library card holders on Saturdays has dropped considerably from about 36 (including 27 lawyers) in 2006 to 15 (including 11 lawyers) in 2011.

**Staffing Implications**

13. There would be no reduction in the conditioned hours of service of individual staff.

**Legal Implications**

14. To implement Phase III, it is necessary to amend the primary and subsidiary legislation to allow those offices of the Judiciary with a public interface (such as the court registries, general offices of magistrates' courts and accounts offices) to switch to a five-day week. The position is set out below.

***(a) Interpretation and General Clauses Ordinance (Cap 1)***

15. Section 71 of Cap 1 provides for the computation of time for the purposes of any ordinance. In gist, the computation of time should not include a public holiday or a gale warning day or black rainstorm warning day. Some Ordinances govern the filing of civil claims, initiating prosecution in criminal courts, or prescribe the time for taking steps in court proceedings. We propose to amend the law to exclude Saturdays in relation to court proceedings, so that if the last day for filing a claim, initiating prosecution or taking a step in court proceedings falls on a Saturday, the closure of a registry on that day will not deprive a litigant's or the prosecution's right.

***(b) Bankruptcy Ordinance (Cap 6)***

16. Section 122 of Cap 6 provides for the computation of time and Saturdays are not excluded. We propose to amend the law to exclude Saturdays as well for a similar reason.

***(c) Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap 62)***

17. Section 3(1) of Cap 62 provides that all judicial proceedings, part-heard or otherwise, which are set down for hearing or are being conducted at a time which falls within the duration of a gale warning or a rainstorm warning shall stand and remained adjourned until resumed with section 4 of Cap 62, which provides that any such adjourned judicial proceedings shall be resumed on the next day, which is not a public holiday, after the day on which the gale warning or rainstorm warning ceases. We propose to amend the law to exclude Saturdays as well. Similar amendments should also be made to section 8 of Cap 62.

***(d) District Court Ordinance (Cap 336)***

18. Section 75A of Cap 336 provides for a prescribed period for the accused in any criminal proceedings to give notice of particulars of an alibi and Section 75A(9) of Cap 336 provides that the prescribed period shall disregard any day which is a general holiday under the General Holidays Ordinance (Cap 149). We propose to amend the law to disregard Saturdays, so that if the last day for giving notice falls on a Saturday, the closure of the registry on that day will not deprive the accused's right of giving notice.

***(e) Coroners Rules (Cap 504B)***

19. Rule 9 of Cap 504B provides that no inquest shall be held on a general holiday under the General Holidays Ordinance (Cap 149) unless the coroner considers it requisite on grounds of urgency that an inquest be held on such a day. And no inquest shall be held on a Sunday. We propose to amend the law to provide that no inquest shall be held on a Saturday.

*(f) Consequential Amendments*

20. We **propose** to amend the following rules to amend the opening hours of registries and accounts office to exclude Saturdays –

- (a) Hong Kong Court of Final Appeal Rules, r.63;
- (b) Rules of the High Court, O.3, r.2, O.64, r7, O.65, r7, and O.65, r10;
- (c) Rules of the District Court, O.3, r.2, O. 64, r.1, O.65, r7, and O.65, r10;
- (d) Labour Tribunal (Suitors' Funds) Rules, r.6(3); and
- (e) Small Claims Tribunal (Suitors' Funds) Rules, r. 6(2).

21. We also **propose** to amend the following provisions which relate to this legislative amendment exercise to exclude Saturdays –

- (a) section 13(3) of the Fixed Penalty (Smoking Offences) Ordinance (Cap 600) provides that "no public holidays shall be included in the computation" relating to the payment of a fixed penalty after the issue of a summons;
- (b) section 13(3) of the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap 570) provides that "no public holidays shall be included in the computation" relating to payment of a fixed penalty after the issue of a summons;
- (c) Schedule to the Fixed Penalty (Criminal Proceedings) Regulations (Cap 240A), Schedule 3 to the Mass Transit Railway (Transport Interchange) Bylaw (Cap 556D), and Schedule 3 to the Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap 283C), and Schedule to the Fixed Penalty (Traffic Contraventions) Regulations (Cap 237A) mention the Saturday opening hours of the Magistrates' Courts.

***(g) Practice Directions***

22. We also propose that for the sake of clarity, we should amend the Practice Directions to make clear that skeleton submissions authorities should reach the courts on Fridays instead of Saturdays.

**WAY FORWARD**

23. We would be grateful for comments on the above proposals from the legal profession and other court users.

**Judiciary Administration  
April 2013**

**Proposed Implementation of Phase III of  
Five-day Week for the Judiciary**

**Purpose**

This paper sets out the proposed arrangements on court and registry support on Saturday mornings in the following areas should five-day week be fully implemented under the final phase i.e. Phase III in the Judiciary:

- (a) handling of urgent payments for bail applications and its follow-up matters;
- (b) handling of fresh remand cases and remand cases brought up as a result of successful execution of arrest warrants in the Magistrate's Courts; and
- (c) resumption of hearings of the Magistrates' Courts following the lowering of gale and rainstorm warning after 11:00 am on a Friday.

This supplements the paper issued earlier on 18<sup>th</sup> April 2013 by the Judiciary for consultation on the proposed implementation of Phase III of Five-day week.



## **Background**

2. Since 2006, the Judiciary has completed two phases in implementing the five-day week. When taking forward the five-day week, the primary consideration of the Judiciary is to avoid disrupting any of the existing services provided to the public and court users. During the course of implementing the first two phases of five-day week there have been minimal adverse comments on the arrangements. After completion of those two phases, the Judiciary has assessed and examined the feasibility of implementing the final phase of five-day week and has come to the conclusion that implementation of the final phase of five-day week is feasible.

3. Subject to the necessary amendments to the legislation concerned, it is envisaged that Phase III of five-day week will be implemented to cover the following offices:

- (a) Court Registries and General Offices of Courts and Tribunals;
- (b) Accounts Offices;
- (c) Bailiffs' Offices;
- (d) Probate Registry; and
- (e) Oaths and Declaration Office.

4. The Judiciary is the view that switching to a five-day week of the above registries/offices will not create undue inconvenience to the public and court users. In tandem with the full implementation of five-day week, the opening and closing times of all court registries/offices are proposed to be extended on weekdays to ensure that the existing level of

service will be maintained. It is intended that the commencement of business of all registries/offices mentioned in paragraph 3 above will be advanced from 9:00 am to 8:45 am from Mondays to Fridays and the closing time will be extended from 5:00 pm to 5:30 pm from Mondays to Fridays.

5. Meanwhile careful consideration has also been given to a number of related areas including:

- (a) how defendants can make urgent bail payments on a Saturday morning (as they could do under the current situation) upon full implementation of the five-day week;
- (b) how fresh remand cases and remand cases brought up as a result of successful execution of arrest warrants in the Magistrates' Courts should be handled on Saturday mornings; and
- (c) how the operation of the Magistrates' Courts should be arranged in the event that a gale or rainstorm warning is to be lowered after 11:00 am on a Friday.

#### **Handling of bail payments and follow-up matters**

6. After implementation of Phase I of five-day week, there had been no more court hearings listed on Saturday mornings including bail applications. However, when a criminal case is brought before court, the defendant may apply for bail or variation of the bail conditions on any weekdays. If the bail is granted, it is the defendant's decision or choice

when to comply with the bail terms including raising money for making payment into court so that he/she could be released from custody.

7. It is possible that a defendant may choose to make payment of bail money or ask to see the Practice Master (in both the High Court and the District Court) for approval of surety on a Saturday morning. If the bail terms have not been fully complied with, the defendant will have to be remanded in custody. According to our records, both the High Court and the District Court have rarely dealt with any bail payments or follow-up matters on Saturday mornings in the past few years.

8. Despite the fact that there have been very rare occasions where bail payments and follow-up matters related thereto are handled during Saturday mornings in the past, it is considered prudent to put in place arrangements in the High Court and the District Court to cater for any such need in the unlikely event that this may arise after the full implementation of five-day week. Under the proposed plan, upon granting of a bail application, a written notice will be given to the bail applicant notifying him that they could contact the registry not later than 5:00 pm on a Friday if he/she wants to make bail payment (including other steps) on the following Saturday morning. Upon receiving such a request, the respective registry will make arrangement for relevant staff to report duty on the Saturday morning concerned to handle the application(s) concerned. Where necessary, arrangement will also be made for a Master of the High Court/ the District Court to attend urgent matters related to the approval of surety in case this becomes necessary on a Saturday morning.

9. As an additional improvement measure in the District Court after five-day week, the Judiciary is inclined to moving the plea day from every Friday to every Thursday so that the defendant can have one full working day on Friday to make arrangement if he/she is granted bail on Thursday. Thus, the defendant will not be detained in custody unnecessarily because of insufficient time after the full implementation of five-day week.

10. The Magistrates' Courts will follow similar arrangements of the High Court and the District Court for cases where bail terms are granted or varied during weekdays but the terms cannot be complied with until the following Saturday morning. The bail applicant is required to contact the Magistrates' Courts staff in advance so that he/she can be told which Magistrates' Courts to approach for making payment because only three Magistrates' Courts will be open on Saturday mornings after full implementation of five-day week and the Magistrate's Court originally granting him/her bail may not be open on that Saturday morning (please also see paragraphs 11-14 below). Upon receiving the request, the relevant registry staff will make arrangement for one of three duty Magistrates' Courts to deal with the request concerned. When there is surety which needs to be approved, the Magistrate of the duty Magistrate's Court concerned can approve the surety accordingly.

#### **Fresh Remand Cases at Magistrates' Courts**

11. Pursuant to section 52(1) of the Police Force Ordinance, Cap 232, a person detained in custody shall be brought before a Magistrate as soon as practicable, within 48 hours. In compliance with this provision, a Magistrate is required to sit on Saturdays to deal with

fresh remand cases as well as those remand cases brought up as a result of successful execution of arrest warrants. Both the High Court and the District Court are not required to deal with fresh remand cases.

12. A Saturday morning sitting roster arrangement has already been in place among the seven Magistrates' Courts. Currently, the seven Magistrates' Courts form three groupings to preside at the plea courts. Current grouping of courts system will continue to operate upon implementation of Phase III five-day week, i.e. three Magistrates' Courts would operate on each Saturday morning.

13. At present, the Accounts Office of all the seven Magistrates' Courts are open on Saturday mornings. When the five-day week is fully implemented, only the accounts offices of the three Magistrates' Courts (together with the Registries of the respective Magistrates' Courts) need to be kept open, meaning that the remaining four can be closed on Saturdays. The Accounts Offices of the duty Magistrates' Courts would receive all kinds of payments arising from the fresh remand cases including fines and bail money. No payment out of bail money would be arranged on Saturday mornings except those of the fresh remand cases heard in the same morning. In addition, they would have to handle those cases mentioned in paragraphs 10 and 14.

#### **Resumption of Magistrates' Courts after lowering of Gale and Rainstorm Warnings**

14. Upon implementation of the final phase of five-day week, Saturday will no longer be a working day. In the event that a gale or rainstorm warning is lowered after 11:00 am on a Friday the following

arrangements for the Magistrates' Courts are envisaged. Like other court levels, the Magistrates' Courts will not deal with fresh cases involving defendants on bail and the hearings for such cases so adjourned will not resume until Monday. Section 8(1) of the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance, Cap. 62 will have to be amended in this regard. The only exception is related to cases involving those who have been detained in custody as referred to in section 8(2) of Cap 62. Because of the need to adhere to the 48-hour rule, these cases will need to continue to be dealt with on a Saturday morning. The proposed arrangement for a Saturday sitting, with the operation of three Magistrates' Courts to deal with fresh remand cases and remand cases brought up as a result of successful execution of arrest warrants as required, (as referred to in paras 11-13 above) will apply.

Judiciary Administration

May 2014



## HONG KONG BAR ASSOCIATION

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Telephone: 2869 0210 Fax: 2869 0189

13<sup>th</sup> June 2014

Mr. Ng Sek-hon  
for Judiciary Administrator  
Judiciary Administration  
Rm L120 High Court  
38 Queensway  
Hong Kong.

Dear *Sek Hon*,

### Five-Day Week and Related Matters

I refer to your letter of 13<sup>th</sup> May 2014 requesting the comments of the Hong Kong Bar Association on Five-Day Week and Related Matters.

A copy of the Comments of the Hong Kong Bar Association dated 13<sup>th</sup> June 2014 on the "Proposed Implementation of Phase III of Five-Day Week for the Judiciary" is enclosed for the consideration of the Judiciary, which has been endorsed at the Bar Council Meeting held on 12<sup>th</sup> June 2014.

Yours sincerely,

Paul Shieh SC  
Chairman

### 香港大律師公會

香港金鐘道三十八號高等法院低層二樓

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Mr. Paul Shieh, S.C.

石永泰

#### Vice Chairmen 副主席:

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Mr. Paul T. K. Lam, S.C.

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梁偉文

#### Deputy Hon. Secretary

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Mr. Victor Dawes

杜達望

Mr. Derek C. L. Chan

陳政龍

Ms. Selina Kung

龔曉晴

Ms. Kim M. Rooney

甘婉玲

Mr. Ernest C.Y. Ng

伍中產

**THE HONG KONG BAR ASSOCIATION'S COMMENTS ON THE  
PAPER ENTITLED "PROPOSED IMPLEMENTATION OF PHASE III  
OF FIVE-DAY WEEK FOR THE JUDICIARY"**

1. On 13 May 2014, the Hong Kong Bar Association (the "HKBA") was asked by the Judiciary Administrator for comments on a paper entitled "Proposed Implementation of Phase III of Five-day Week for the Judiciary" (the "Paper").

**The HKBA's general comments**

2. The HKBA is of the view that the proposals relating to the handling of bail payments and related matters is seriously flawed and is therefore not acceptable.

**The proposals**

3. The proposal on the handling of bail payments in the High Court and the District Court is that "upon granting of a bail application, a written notice will be given to the bail applicant notifying him that they could contact the registry not later than 5:00 pm on a Friday if he/she wants to make bail payment (including other steps) on the following Saturday morning. Upon receiving such a request, the respective registry will make arrangement for relevant staff to report duty on the Saturday morning concerned to handle the application(s) concerned." see §8 (at p. 4) of the Paper.
4. The proposal on the handling of bail payments in the Magistrates' Courts is to follow similar arrangements in the High Court and the District Court save that the "bail applicant is required to contact the Magistrates' Courts staff in advance so that he/she can be told which Magistrates' Court to approach for making payment because only three Magistrates' Courts will be open on Saturday mornings after full implementation of the five-day week and the Magistrates Court originally granting him/her bail may not be open on that Saturday morning.... Upon receiving the request, the relevant registry staff will make arrangement for one of three Magistrates' Courts to deal with the request concerned. When there is surety which needs to be approved, the Magistrate of the duty Magistrate's Court can approve surety accordingly": see §10 (at p. 5) of the Paper.

**The Bar's specific comments**

5. The HKBA is of the view the proposals in paragraph 4 and 5 above are seriously flawed because it will not apply to those who are only able to raise bail money after 5:00 p.m. on a Friday. These persons will not contact the registry before 5:00 p.m. and so would have to wait until Monday to be released from custody even



though they are able and willing to pay bail money on Saturday morning. They are also most likely to be the ones who would want to contact the registry because those who are able to raise bail before 5:00 p.m. on a Friday are likely to pay the bail money before such time so as to be released from custody over the weekend (and so will not contact the registry) and those who are not so able will not contact the registry in any event.

6. The HKBA notes that it is unclear whether those who make requests to the High Court and District Court registries and to the Magistrates' Courts staff but who do not pay bail money the following Saturday morning would face any sanction. The HKBA opposes the imposition of any sanction because it would be discriminatory in that those who make bail payments on Saturdays would be treated differently and unequally from those who make bail payments from Monday to Friday.
7. If there is no sanction, those who are not able to raise bail before 5:00 p.m. on a Friday may well make requests before 5:00 p.m. anyway in the hope that they would be able to raise the bail money by Saturday morning since they have nothing to lose by doing so. The result is that in the course of time, staff would be reporting for duty on Saturdays.

#### **The Bar's comments on the handling of related matters**

8. The HKBA supports the making of arrangements for a Master of the High Court and/or the District Court to attend urgent matters related to the approval of surety in case this becomes necessary on a Saturday morning (see §8 (at p. 4) of the Paper) provided such arrangements do not depend on requests made to the High Court, District Court registries before 5.00 p.m. on the Friday for the reason stated in §5 above.

#### **The Bar's comments on the "additional improvement measure"**

9. The HKBA supports the "additional improvement measure" (in §9 (at p. 5) of the Paper) of moving the plea day from every Friday to Thursday in the District Court to give a defendant more time to make arrangements if he or she is granted bail but does not support limiting the making of such arrangements to one full working day on Friday if the registry is not contacted before 5:00 p.m. that day for the reason stated in §5 above. Although "the defendant will not be detained in custody unnecessarily because of insufficient time", he will be so detained because of his failure to contact the registry in time i.e. before 5:00 p.m. on Friday, even though he is able and willing to pay bail money on Saturday morning.

**The Bar's comments on the resumption of "Magistrates' Court after lowering of Gale and Rainstorm Warnings"**

10. The HKBA finds the proposed arrangements for the Magistrates' Courts in §14 (at p. 6) of the Paper acceptable, as they will not prejudice defendants on bail.

**Dated 13<sup>th</sup> June 2014**

**Hong Kong Bar Association**

香港司法機構  
司法機構政務處



JUDICIARY ADMINISTRATION  
JUDICIARY  
HONG KONG

本函檔號 OUR REF:

來函檔號 YOUR REF:

電話 TEL:

11 July 2014

Mr Paul Shieh, SC  
The Chairman  
The Hong Kong Bar Association  
LG2, High Court  
38 Queensway, Hong Kong

Dear *Paul*,

Five-Day Week and Related Matters

I refer to your letter of 13 June 2014 which sets out the concerns of the Bar Council on our paper "Proposed Implementation of Phase III of Five-Day Week for the Judiciary" sent under the cover of my earlier letter dated 13 May 2014.

2. While we are pleased to note that the Bar Council is generally supportive of our revised proposal, it still has concerns on the proposed arrangement whereby a bail applicant has to notify our registries not later than 5 p.m. on a Friday if he /she wants to make bail payment in the following Saturday morning.

3. At your suggestion, I have followed it up with Mr Anthony Ismail with a very useful discussion last week. As I have explained to him, the intention of our proposal is that court users should not be made worse off as a consequence of the full implementation of five-day week in the Judiciary. That means court users who are presently able to deal with bail payment on Saturday mornings would still be able to do so in future by notifying the respective registries before 5 p.m. on the preceding Friday. Such arrangement will enable our registry staff to get ready with the necessary arrangement. In any event, past records in the High Court and the District Court show that the incidence of court users having to deal with bail payments on Saturday mornings has been extremely rare.

4. In view of the above, Mr Ismail has kindly agreed to my proposal of letting the proposed arrangement be tried out for a period of six months after the full implementation of five-day week in the Judiciary. We will monitor the situation closely during this trial period after which we will review to see if any adjustment or refinement is necessary.

5. I hope the above will be acceptable to the Bar Council. No doubt, your Council and other stakeholders will be kept posted of development.

Yours sincerely,



( NG Sek-hon )  
for Judiciary Administrator

c.c. Mr Anthony Ismail



## Appendix IV

### HONG KONG BAR ASSOCIATION

Secretariat: LG2 Floor, High Court, 38 Queensway, Hong Kong  
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(Our ref: GC/rc/048)

18<sup>th</sup> July 2014

Mr. Ng Sek-hon  
for Judiciary Administrator  
High Court  
38 Queensway  
Hong Kong

Dear Mr. Ng,

#### Five-Day Week and Related Matters

I refer to your letter of 11<sup>th</sup> July 2014 on the captioned matter which was considered at the Bar Council Meeting on 17<sup>th</sup> July 2014.

Please be informed the Bar Council has resolved to accept the proposal in your letter.

Yours sincerely,

Paul Shieh, SC  
Chairman

### 香港大律師公會

香港金鐘道三十八號高等法院低層二樓

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杜淦堃

陳政龍

龔靖晴

甘婉玲

伍中彥

**Judiciary (Five-day Week) (Miscellaneous Amendments) Bill  
(Marked-up Version)**

**Interpretation and General Clauses Ordinance (Cap. 1)**

**Section 71 computation of time**

- (1) ~~In Subject to subsection (1A), in~~ computing time for the purposes of any Ordinance-
- (a) a period of days from the happening of any event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;
  - (b) if the last day of the period is a public holiday or a gale warning day or black rainstorm warning day the period shall include the next following day, not being a public holiday or a gale warning day or black rainstorm warning day;
  - (c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day is a public holiday or a gale warning day or black rainstorm warning day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next following day, not being a public holiday or a gale warning day or black rainstorm warning day;
  - (d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding 6 days, no public holiday or a gale warning day or black rainstorm warning day shall be reckoned in the computation of that time.

(1A) If the computation mentioned in subsection (1) of time is in relation to doing an act at a court office, the following provisions apply to the computation to the exclusion of subsection (1)(b), (c) and (d)—

- (a) if the act is directed or allowed to be done within a period of time, and the last day of the period is a closure day for that office, the period includes the next following day, not being a closure day for that office;
- (b) if the act is directed or allowed to be done on a certain day, and that day is a closure day for that office, the act is considered as done in due time if it is done on the next following day, not being a closure day for that office; and



(c) if the act is directed or allowed to be done within any time not exceeding 7 days, no closure day for that office may be reckoned in the computation of that time.

- (2) In this section-"black rainstorm warning day" (黑色暴雨警告日) means any day throughout or for part of which a black rainstorm warning is in force, and "black rainstorm warning" (黑色暴雨警告) means a warning issued by the Director of the Hong Kong Observatory of a heavy rainstorm in, or in the vicinity of, Hong Kong by the use of the heavy rainstorm signal commonly referred to as Black;

closure day (關閉日), in relation to a court office, means a Saturday, a public holiday, a gale warning day, a black rainstorm warning day, or other day on which that office is closed;

court office (法院辦事處) means an office or registry of the following courts or tribunals of the Judiciary of Hong Kong—

- (a) Court of Final Appeal;
- (b) Court of Appeal;
- (c) Court of First Instance;
- (d) Competition Tribunal;
- (e) District Court;
- (f) Magistrates' Court;
- (g) Lands Tribunal;
- (h) Labour Tribunal;
- (i) Small Claims Tribunal;
- (j) Obscene Articles Tribunal;
- (k) Coroner's Court;

"gale warning day" (烈風警告日) means any day throughout or for part of which a gale warning is in force, and "gale warning" (烈風警告) has the meaning assigned to it by section 2 of the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap 62).

## High Court Ordinance (Cap. 4)

### Section 30 business in vacations

- (1) The High Court and the Registries shall be open during any vacation (~~except on general holidays~~) for the purpose of-
  - (a) holding criminal trials and determining criminal appeals and the transaction of all business incidental thereto; and
  - (b) the transaction of such other business as may be prescribed by rules of court.

(2)-(3) (Repealed 49 of 1983 s. 6)

(4) Subsection (1) does not require the High Court and the Registries to be open on Saturdays, general holidays, or any other days as directed by the Chief Justice.

## Rules of the High Court (Cap. 4 sub. leg. A)

### Order 3 Time

#### Rule 2 Reckoning periods of time

- (1) Any period of time fixed by these rules or by any judgment, order or direction for doing any act shall be reckoned in accordance with the following provisions of this rule.
- (2) Where the act is required to be done within a specified period after or from a specified date, the period begins immediately after that date.
- (3) Where the act is required to be done within or not less than a specified period before a specified date, the period ends immediately before that date.
- (4) Where the act is required to be done a specified number of clear days before or after a specified date, at least that number of days must intervene between the day on which the act is done and that date.
- (5) Where, apart from this paragraph, the period in question, being a period of 7 days or less, would include a ~~Sunday or a general holiday~~ day specified in paragraph (6), that day shall be excluded. ~~In this paragraph "general holiday"~~



~~(公眾假期) means a day which is, or is to be observed as, a general holiday under the General Holidays Ordinance (Cap 149).~~

(6) The day specified for paragraph (5) is—

- (a) a Saturday;
- (b) a general holiday;
- (c) a gale warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);
- (d) a black rainstorm warning day as defined by that section; or
- (e) (if the act in question is to be done at an office of the Court) any other day on which that office is closed.

**Rule 4 time expires on ~~Sunday, etc.~~ days on which office is closed**

(1) Where the time prescribed by these rules, or by any judgment, order or direction, for doing any act at an office of the Court expires on a ~~Sunday or other day on which that office is closed~~ day specified in paragraph (2), and by reason thereof that act cannot be done on that day, the act shall be in time if done on the next day on which that office is open.

(2) The day specified for paragraph (1) is—

- (a) a Saturday;
- (b) a general holiday;
- (c) a gale warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);
- (d) a black rainstorm warning day as defined by that section; or
- (e) any other day on which the office mentioned in paragraph (1) is closed.

## **Order 64 SITTINGS, VACATIONS AND OFFICE HOURS**

**Rule 7 High Court Offices: days on which open and office hours**

(1) The offices of the High Court shall be open on every day of the year except—

- (a) Saturdays from 1 p.m.;
  - (b) Sundays;
  - (c) (ca) (Repealed L.N. 92 of 2012)
  - (e) general holidays under the General Holidays Ordinance (Cap 149);
  - (f) such other days as the Chief Justice may direct.
- Saturdays and general holidays.

(1A) Despite paragraph (1), the Chief Justice may from time to time direct an office of the High Court to be open or closed on any day.

- (2) The hours during which any office of the High Court shall be open to the public shall be such as the Chief Justice may from time to time direct.

## **Order 65 Service of Documents**

### **~~7. Effect of service after certain hours (O. 65, r. 7)~~**

~~Any document (other than a writ of summons or other originating process) service of which is effected under rule 2 or under rule 5(1)(a) between 1 p.m. on a Saturday and midnight on the following day or after four in the afternoon on any other weekday shall, for the purpose of computing any period of time after service of that document, be deemed to have been served on the Monday following that Saturday or on the day following that other weekday, as the case may be.~~

### **7. Effect of service at certain time (O. 65, r. 7)**

- (1) This rule applies if a document (other than a writ of summons or other originating process) is served under rule 2 or 5(1)(a)—  
(a) on a day specified in paragraph (3); or  
(b) after 4 p.m. on any other day.
- (2) For computing any period of time after service of the document, the document is deemed to be served on the next following day, not being a day specified in paragraph (3).
- (3) The day specified for paragraphs (1) and (2) is—  
(a) a Saturday;  
(b) a general holiday;  
(c) a gale warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1); or  
(d) a black rainstorm warning day as defined by that section.



## Bankruptcy Ordinance (Cap. 6)

### Section 122 computation of time

#### Miscellaneous

- (1) Where by this Ordinance any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of that limited time as so computed.
- ~~(2) Where the limited time so appointed or allowed is less than 6 days, general holidays as defined by the General Holidays Ordinance (Cap 149) shall not be reckoned in the computation of such time.~~
- ~~(3) Where the limited time so appointed or allowed expires on one of the days in this section specified, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards which is not one of the days in this section specified.~~
- ~~(2) If that limited time is less than 6 days, a day specified in subsection (3A) is not to be reckoned in the computation of that limited time.~~
- ~~(3) If that limited time expires on a day specified in subsection (3A), the act or proceeding is considered as done or taken in due time if it is done or taken on the next following day that is not a day specified in subsection (3A).~~
- ~~(3A) The day specified for subsections (2) and (3) is—
  - ~~(a) a Saturday;~~
  - ~~(b) a general holiday;~~
  - ~~(c) a gale warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);~~
  - ~~(d) a black rainstorm warning day as defined by that section; or~~
  - ~~(e) (if the act or proceeding in question is to be done or taken at an office of the court) any other day on which that office is closed.~~~~
- (4) The provisions of this section shall take effect notwithstanding anything contained in sections 29, 30 and 31 of the High Court Ordinance (Cap 4).

## **Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62)**

### **Section 2 Interpretation**

In this Ordinance, unless the context otherwise requires-

"adjourned hearing" (經延期的聆訊) means the resumed hearing of any judicial proceedings adjourned by or under this Ordinance;

"Director" (台長) means the Director of the Hong Kong Observatory;

"gale warning" (烈風警告) means a warning of the occurrence of a tropical cyclone in, or in the vicinity of, Hong Kong by the use of any of the tropical cyclone warning signals referred to in section 5(1)(a)(i);

"judicial proceedings" (司法程序) means any proceedings before a court, tribunal, commission or other person having by law power to receive evidence on oath;

"period of adjournment" (延期期間) means a period during which any judicial proceedings are adjourned by section 3 or 6;

"rainstorm warning" (暴雨警告) means a warning of a heavy rainstorm in, or in the vicinity of, Hong Kong by the use of the heavy rainstorm warning signal referred to in section 5(1)(a)(ii);

"tropical cyclone" (熱帶氣旋) means a tropical depression, a tropical storm, a severe tropical storm and a typhoon-;

**working day** (工作日) means a day that is neither a Saturday nor a public holiday.

### **Section 4 Resumption of adjourned judicial proceedings**

Any judicial proceedings adjourned by virtue of section 3 shall be resumed on the next ~~day, which is not a public holiday,~~ working day after the day on which the gale warning or rainstorm warning ceases at the time and place specified for such proceedings on the date of such adjournment under section 3.

### **Section 8 Persons arrested or detained by police**



- (1) Where a person is discharged under section 52(1) of the Police Force Ordinance (Cap 232) upon his entering into a recognizance, with or without sureties, to appear before a magistrate or to surrender for service of a warrant of arrest and detention or for discharge at the time named in the recognizance and such time falls within the duration of a gale warning or a rainstorm warning the time shall be deemed to be extended until the same time on the next ~~day, which is not a public holiday,~~working day after the day on which the gale warning or rainstorm warning ceases.
- (2) Where any person is detained in custody under section 52(1) or (4) of the Police Force Ordinance (Cap 232) during a gale warning or a rainstorm warning and it is not practicable to produce the person before a magistrate within the time limit prescribed in the said subsection (1) or (4), as the case may be, he shall be produced before a magistrate on the next day, which is not a public holiday, after the day on which the gale warning or rainstorm warning ceases.

## **Buildings Ordinance (Cap. 123)**

### **Schedule 7 Penalty Notice**

17. After proceedings have been instituted but not less than 2 days (excluding any Saturday and public holiday) before the day specified in the summons for the person's appearance, the person may pay the fixed penalty of \$1500 and a sum of \$500 by way of costs with the production of the summons at any magistracy to terminate the proceedings.

## **Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237)**

### **Section 20B. Payment of fixed penalty after issue of summons**

- (1) Notwithstanding that proceedings have been instituted against a person who has notified the Commissioner of Police in accordance with the notice served on him under section 15(3), that he wishes to dispute liability, the defendant may pay the fixed penalty together with an additional penalty equal to the amount of the fixed penalty in accordance with subsection (2), and, if at the same time the defendant also pays to the court the sum of \$500 by way of costs, the proceedings shall thereupon terminate.
- (2) Payment under subsection (1) shall be made to any magistrate's court not later than 2 clear working days before the day specified in the summons for his appearance; and the summons shall be produced at the time of payment.
- (2A) In subsection (2) the expression "clear working days" (整個工作天) excludes the day specified in the summons for the appearance of the defendant and intervening Saturdays and public holidays.
- (3) The Legislative Council may, by resolution, amend the sum specified in subsection (1).

## **Fixed Penalty (Traffic Contraventions) Regulations (Cap. 237 sub. leg. A)**

### **Schedule, Forms 1 and 2, Payment Instructions**

#### **(e) 親自繳款**

親自或由代理人往下列辦事處繳付—

- (i) 任何郵政局(郵政局信箱及流動郵政局除外)。如欲查詢有關地址及辦公時間，請致電香港郵政熱線：2921 2222 或瀏覽其網站(URL 位址：<http://www.hongkongpost.com>)；

**港島**

#### **(e) In Person**

Payment may be made personally or by an agent at any of the following offices-

- (i) Any Post Office other than a post office letter box or a mobile post office. For addresses and opening hours, please call the Hongkong Post Hotline: 2921 2222 or visit their web site (URL address: <http://www.hongkongpost.com>);

**Hong Kong Island**

- (ii) (Repealed L.N. 158 of 2005)



(ii) (由 2005 年第 158 號法律公告廢除)

(iii) 西灣河太安街 29 號東區法院大樓東區裁判法院；

### 九龍

(iv) 亞皆老街 147 號 M 九龍城裁判法院大樓九龍城裁判法院；

(v) 觀塘鯉魚門道 10 號觀塘法院大樓觀塘裁判法院；

(vi) (由 2005 年第 158 號法律公告廢除)

### 新界

(vii) 粉嶺璧峰路 1 號粉嶺法院大樓粉嶺裁判法院；

(viii) 荃灣大河道 70 號荃灣法院大樓荃灣裁判法院；

(ix) 沙田宜正里 1 號沙田法院大樓沙田裁判法院；

(x) 屯門屯喜路 1 號屯門法院大樓屯門裁判法院。

上述裁判法院於下列時間收款—

星期一：上午 98 時 45 分至下午 1 時；

至及

(iii) Eastern ~~Magistraey~~ Magistrates' Courts, Eastern Law Courts Building, 29 Tai On Street, Sai Wan Ho;

### Kowloon

(iv) Kowloon City Magistrates' Courts, Kowloon City Law Courts Building, 147M Argyle Street;

(v) Kwun Tong ~~Magistraey~~ Magistrates' Courts, Kwun Tong Law Courts Building, 10 Lei Yue Mun Road, Kwun Tong;

(vi) (Repealed L.N. 158 of 2005)

### New Territories

(vii) Fanling Magistrates' Courts, Fanling Law Courts Building, 1 Pik Fung Road, Fanling;

(viii) Tsuen Wan ~~Magistraey~~ Magistrates' Courts, Tsuen Wan Law Courts Building, 70 Tai Ho Road, Tsuen Wan;

(ix) Shatin ~~Magistraey~~ Magistrates' Courts, Shatin Law Courts Building, 1 Yi Ching Lane, Shatin;

(x) Tuen Mun ~~Magistraey~~ Magistrates' Courts, Tuen Mun Law Courts Building, 1 Tuen Hi Road, Tuen Mun.

The above magistracies receive payments during the hours of—  
Monday : 9-8:45 a.m. to 1 p.m.;  
to and  
Friday 2 p.m. to 5:30 p.m.  
~~Saturday : 9 a.m. to 12 noon~~

星期五 下午 2 時至 5 時 30 分

~~星期六：上午 9 時至中午 12 時~~

This notice must be kept intact and produced at the time of payment.

本通知書必須保持完整並於繳款時出示。

## **Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)**

### **Section 9 Payment of fixed penalty after issue of summons**

- (1) Notwithstanding that proceedings have been instituted against a person who has notified the Commissioner of Police that he wishes to dispute liability, the defendant may pay the fixed penalty together with an additional penalty equal to the amount of the fixed penalty in accordance with subsection (2) and, if at the same time the defendant also pays to the court the sum of \$500 by way of costs, the proceedings shall thereupon terminate.
- (2) Payment under subsection (1) shall be made to any magistrate's court not later than 2 clear working days before the day specified in the summons for his appearance; and the summons shall be produced at the time of payment.
- (2A) In subsection (2) the expression "clear working days" (整個工作天) excludes the day specified in the summons for the appearance of the defendant and intervening Saturdays and public holidays.
- (3) The Legislative Council may, by resolution, amend the sum specified in subsection (1).

## **Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg. A)**

### **Schedule, Forms 1 and 2, Payment Instructions**

#### **(e) 親自繳款**

親自或由代理人往下列辦事處繳付—

- (i) 任何郵政局(郵政局信箱及流動郵

#### **(e) In Person**

Payment may be made personally or by an agent at any of the following offices-

- (i) Any Post Office other than a post office letter box or a mobile post office. For addresses and opening hours, please



政局除外)。如欲查詢有關地址及辦公時間，請致電香港郵政熱線：2921 2222 或瀏覽其網站(URL 位址：<http://www.hongkongpost.com>)；

### 港島

- (ii) (由 2005 年第 158 號法律公告廢除)
- (iii) 西灣河太安街 29 號東區法院大樓東區裁判法院；

### 九龍

- (iv) 亞皆老街 147 號 M 九龍城裁判法院大樓九龍城裁判法院；
- (v) 觀塘鯉魚門道 10 號觀塘法院大樓觀塘裁判法院；
- (vi) (由 2005 年第 158 號法律公告廢除)

### 新界

- (vii) 粉嶺璧峰路 1 號粉嶺法院大樓粉嶺裁判法院；
- (viii) 荃灣大河道 70 號荃灣法院大樓荃灣裁判法院；
- (ix) 沙田宜正里 1 號沙田法院大樓沙田裁判法院；
- (x) 屯門屯喜路 1 號屯門法院大樓屯門裁判法院。

call the Hongkong Post Hotline: 2921 2222 or visit their web site (URL address:

<http://www.hongkongpost.com>);

### Hong Kong Island

- (ii) (Repealed L.N. 158 of 2005)
- (iii) Eastern ~~Magistraey~~ Magistrates' Courts, Eastern Law Courts Building, 29 Tai On Street, Sai Wan Ho;

### Kowloon

- (iv) Kowloon City Magistrates' Courts, Kowloon City Law Courts Building, 147M Argyle Street;
- (v) Kwun Tong ~~Magistraey~~ Magistrates' Courts, Kwun Tong Law Courts Building, 10 Lei Yue Mun Road, Kwun Tong;
- (vi) (Repealed L.N. 158 of 2005)

### New Territories

- (vii) Fanling Magistrates' Courts, Fanling Law Courts Building, 1 Pik Fung Road, Fanling;
- (viii) Tsuen Wan ~~Magistraey~~ Magistrates' Courts, Tsuen Wan Law Courts Building, 70 Tai Ho Road, Tsuen Wan;
- (ix) Shatin ~~Magistraey~~ Magistrates' Courts, Shatin Law Courts Building, 1 Yi Ching Lane, Shatin;
- (x) Tuen Mun ~~Magistraey~~ Magistrates' Courts, Tuen Mun Law Courts

Building, 1 Tuen Hi Road, Tuen Mun.

上述裁判法院於下列時間收款—

星期一：上午 98 時 45 分 至下午 1  
時；  
至 及

星期五 下午 2 時至 5 時 30 分

~~星期六：上午 9 時至中午 12 時~~

The above magistracies receive  
payments during the hours of-  
Monday : 9-8:45 a.m. to 1 p.m.;  
to and  
Friday 2 p.m. to 5:30 p.m.  
~~Saturday : 9 a.m. to 12 noon~~

This notice must be kept intact and  
produced at the time of payment.

本通知書必須保持完整並於繳款時出  
示。

## **Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283 sub. leg. C)**

### **Section 18 Payment of fixed penalty after issue of summons**

- (1) Notwithstanding that proceedings have been instituted against a person who has notified the Director in accordance with the notice served on him under section 8(3), that he wishes to dispute liability, the defendant may pay the fixed penalty together with an additional penalty equal to the amount of the fixed penalty in accordance with subsection (2), and, if at the same time the defendant also pays to the court the sum referred to in subsection (3) by way of costs, the proceedings shall thereupon terminate.
- (2) Payment under subsection (1) shall be made to any magistracy not later than 2 clear working days before the day specified in the summons for his appearance, and the summons shall be produced at the time of payment.
- (2A) In subsection (2) the expression "clear working days" (整個工作天) excludes the day specified in the summons for the appearance of the defendant and intervening Saturdays and public holidays.
- (3) The sum to be paid by way of costs for the purpose of subsection (1) shall be the same as the sum to be paid by way of costs for the purpose of section 20B of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237).



### Schedule 3, Form 1 and 2, Payment Instructions

#### (e) 親自繳款

親自或由代理人往下列辦事處繳付—

- (i) 任何郵政局(郵政局信箱及流動郵政局除外)。如欲查詢有關地址及辦公時間，請致電香港郵政熱線：2921 2222 或瀏覽其網站(URL 位址：<http://www.hongkongpost.com>)；

#### 港島

- ~~(ii) 薄扶林道 2 號 A 西區裁判法院~~  
(iii) 西灣河太安街 29 號東區法院大樓東區裁判法院；

#### 九龍

- (iv) 亞皆老街 147 號 M 九龍城裁判法院大樓九龍城裁判法院；  
(v) 觀塘鯉魚門道 10 號觀塘法院大樓觀塘裁判法院；  
~~(vi) 大埔道 292 號北九龍裁判法院；~~

#### 新界

- (vii) 粉嶺璧峰路 1 號粉嶺法院大樓粉嶺裁判法院；  
(viii) 荃灣大河道 70 號荃灣法院大樓荃灣裁判法院；  
(ix) 沙田宜正里 1 號沙田法院大樓沙田裁判法院；

#### (e) In Person

Payment may be made personally or by an agent at any of the following offices-

- (i) Any Post Office other than a post office letter box or a mobile post office. For addresses and opening hours, please call the Hongkong Post Hotline: 2921 2222 or visit their web site (URL address:  
<http://www.hongkongpost.com>);

#### Hong Kong Island

- ~~(ii) Western Magistracy, 2A Pok Fu Lam Road;~~  
(iii) Eastern ~~Magistracy~~ Magistrates' Courts, Eastern Law Courts Building, 29 Tai On Street, Sai Wan Ho;

#### Kowloon

- (iv) Kowloon City Magistrates' Courts, Kowloon City Law Courts Building, 147M Argyle Street;  
(v) Kwun Tong ~~Magistracy~~ Magistrates' Courts, Kwun Tong Law Courts Building, 10 Lei Yue Mun Road, Kwun Tong;  
~~(vi) North Kowloon Magistracy, 292 Tai Po Road;~~

#### New Territories

- (vii) Fanling Magistrates' Courts, Fanling Law Courts Building, 1 No. 1, Pik Fung Road, Fanling ;  
(viii) Tsuen Wan ~~Magistracy~~ Magistrates' Courts, Tsuen Wan Law Courts Building, 70 Tai Ho Road, Tsuen Wan;  
(ix) Shatin ~~Magistracy~~ Magistrates'



(x) 屯門屯喜路 1 號 屯門法院大樓 屯門裁判法院。

Courts, Shatin Law Courts Building, 1 Yi Ching Lane, Shatin;

(x) Tuen Mun ~~Magistracy~~ Magistrates' Courts, Tuen Mun Law Courts Building, 1 Tuen Hi Road, Tuen Mun.

上述裁判法院於下列時間收款—

星期一：上午 ~~9~~8時45分至下午1時；

至及

星期五 下午2時至5時30分

~~星期六：上午9時至中午12時~~

The above magistracies receive payments during the hours of-

Monday : ~~9~~8:45 a.m. to 1 p.m.;

to and

Friday 2 p.m. to 5:30 p.m.

~~Saturday : 9 a.m. to 12 noon~~

This notice must be kept intact and produced at the time of payment.

本通知書必須保持完整並於繳款時出示。

## Rules of the District Court (Cap. 336 sub. leg. H)

### Order 3 Time

#### Rule 2 Reckoning periods of time

- (1) Any period of time fixed by these Rules or by any judgment, order or direction for doing any act shall be reckoned in accordance with this rule.
- (2) Where the act is required to be done within a specified period after or from a specified date, the period begins immediately after that date.
- (3) Where the act is required to be done within or not less than a specified period before a specified date, the period ends immediately before that date.
- (4) Where the act is required to be done a specified number of clear days before or after a specified date, at least that number of days must intervene between the day on which the act is done and that date.
- (5) Where, apart from this paragraph, the period in question, being a period of 7 days or less, would include a ~~Sunday or a general holiday~~ day specified in paragraph (6), that day shall be excluded. ~~In this paragraph, "general holiday"~~

~~(公眾假期) means a day which is, or is to be observed as, a general holiday under the General Holidays Ordinance (Cap 149).~~

(6) The day specified for paragraph (5) is—

- (a) a Saturday;
- (b) a general holiday;
- (c) a gale warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);
- (d) a black rainstorm warning day as defined by that section; or
- (e) (if the act in question is to be done at an office of the Court) any other day on which that office is closed.

#### **Rule 4 Time expires on ~~Sunday, etc.~~days on which office is closed**

(1) Where the time prescribed by these Rules, or by any judgment, order or direction, for doing any act at an office of the Court expires on a ~~Sunday or other day on which that office is closed~~day specified in paragraph (2), and by reason thereof that act cannot be done on that day, the act shall be in time if done on the next day on which that office is open.

(2) The day specified for paragraph (1) is—

- (a) a Saturday;
- (b) a general holiday;
- (c) a gale warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);
- (d) a black rainstorm warning day as defined by that section; or
- (e) any other day on which the office mentioned in paragraph (1) is closed.

### **Order 64 Court Offices**

#### **Rule 1 Days on which Court offices open**

(1) The offices of the Court shall be open on every day of the year except—

- ~~(a) Saturdays from 1 p.m.;~~
- ~~(b) Sundays;~~
- ~~(c) (ca) (Repealed L.N. 93 of 2012)~~
- ~~(d) general holidays under the Holidays Ordinance (Cap 149);~~
- ~~(f) such other days as the Chief Justice may direct.~~
- Saturdays and general holidays.



(21A) Despite paragraph (1), the Chief Justice may from time to time direct an office of the Court to be open or closed on any day.

## **Order 65 Service of Documents**

### **~~Rule 7 Effect of service after certain hours~~**

~~Any document (other than a writ of summons or other originating process) service of which is effected under rule 2 or under rule 5(1)(a) between 1 p.m. on a Saturday and midnight on the following day or after 4 in the afternoon on any other weekday shall, for the purpose of computing any period of time after service of that document, be deemed to have been served on the Monday following that Saturday or on the day following that other weekday, as the case may be.~~

### **7. Effect of service at certain time (O.65, r.7)**

- (1) This rule applies if a document (other than a writ of summons or other originating process) is served under rule 2 or 5(1)(a)—
  - (a) on a day specified in paragraph (3); or
  - (b) after 4 p.m. on any other day.
- (2) For computing any period of time after service of the document, the document is deemed to be served on the next following day, not being a day specified in paragraph (3).
- (3) The day specified for paragraphs (1) and (2) is—
  - (a) a Saturday;
  - (b) a general holiday;
  - (c) a gale warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1); or
  - (d) a black rainstorm warning day as defined by that section.

## **Hong Kong Court of Final Appeal Rules (Cap. 484 sub. leg. A)**

### **Rule 63 Court Offices: days on which open and office hours**

- (1) The offices of the Court shall be open on every day of the year except-
  - (a) Saturdays from 1 p.m.;
  - (b) Sundays;
  - (c) (d) (Repealed L.N. 91 of 2012)
  - (e) general holidays under the General Holidays Ordinance (Cap 149);

~~(f) — such other days as the Chief Justices may direct.  
Saturdays and general holidays.~~

~~(1A) Despite paragraph (1), the Chief Justice may from time to time direct an  
office of the Court to be open or closed on any day.~~

(2) The hours during which any office of the Court shall be open to the public shall be such as the Chief Justice may from time to time direct.

## **Coroners Ordinance (Cap. 504)**

### **Section 2 Interpretation**

In this Ordinance, unless the context otherwise requires-

"autopsy" (屍體剖驗) means an autopsy ordered to be performed under section 6(1);

"cause" (導致、原因), in relation to the death of a person, includes to precipitate or contribute to, whether directly or indirectly, the death;

"certificate of the cause of death" (死因證明書) means Form 18 in the Second Schedule to the Births and Deaths Registration Ordinance (Cap 174);

"certificate of the fact of death" (死亡事實證明書) means a certificate referred to in section 41(1);

~~"clear day" (整日) means a day other than a public holiday or a gale warning day within the meaning of section 2 of the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap 62);~~

### **Section 22 Summoning of jurors**

(1) The Registrar shall cause a juror whose name is selected under section 21(1) to be served with a summons in the prescribed form requiring his attendance at an inquest at the time and place specified in the summons.

(2) A summons referred to in subsection (1) shall be served on a juror personally or by leaving it at his residence or place of business, or by sending it by



registered post addressed to him at his residence or place of business: Provided that if such a summons is not served personally it shall be served 4 clear days before the day appointed for the holding of the inquest concerned, and, in the case of service by post, an additional 2 clear days shall be allowed for delivery.

- (3) A summons referred to in subsection (1) served by post in accordance with subsection (2) and not returned as undelivered shall, in the absence of evidence to the contrary, be deemed to have been served.
- (4) A juror who, having been served with a summons referred to in subsection (1) in accordance with subsection (2), fails, without reasonable excuse, to attend the inquest concerned pursuant to such summons or at any adjournment of that inquest commits an offence and is liable on conviction to a fine at level 2.
- (5) For the purposes of subsection (2), the following days must not be reckoned in computing the number of clear days—
  - (a) a Saturday;
  - (b) a public holiday;
  - (c) a gale warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);
  - (d) a black rainstorm warning day as defined by that section.

#### **Coroners Rules (Cap. 504 sub. leg. B)**

##### **Rule 9 Inquests not to be held on ~~general holidays or Sundays~~ Saturdays or general holidays**

- (1) No inquest shall be held on a ~~general holiday within the meaning of section 2 of the General Holidays Ordinance (Cap. 149)~~ Saturday or a general holiday (other than a Sunday) unless the coroner considers it requisite on grounds of urgency that an inquest be held on such a day.
- (2) No inquest shall be held on a Sunday.

#### **Mass Transit Railway (Transport Interchange) Bylaw (Cap. 556 sub. leg. D)**

##### **Section 40 Payment of fixed penalty**



- (1) A person who receives a notice in Form 1 or 2 of Schedule 3 may pay the fixed penalty within the period of time stated in the notice-
  - (a) by post, to the Director of Accounting Services, the Treasury, Immigration Tower, 7 Gloucester Road; or
  - (b) personally or through his ~~agent-~~
    - ~~(i) at the Revenue Branch of the Treasury or at any sub-treasury;~~
    - ~~(ii) at any magistracy; or~~
    - ~~(iii) at any District Office,~~  
~~specified in the notice.~~agent at any magistrate's court specified in the notice.
- (2) A person who wishes to pay the fixed penalty in accordance with subsection (1) shall deliver the notice to which the payment relates together with the payment.
- (3) When any payment is made in accordance with this section, it shall be of the amount specified in the notice or, where payment is made in respect of more than 1 notice, of the total amounts specified in the notices.
- (4) A payment under subsection (1) shall not include, or form part of, an amount in respect of a matter other than a matter specified in the notice or notices.
- (5) Where any amount is paid otherwise than in accordance with this section, the Director of Accounting Services may return it to the payer.
- (6) Subject to subsection (5), the Director of Accounting Services shall, whenever practicable to do so, send to the person paying a fixed penalty a receipt for the payment.
- (7) Subject to section 49, no payment shall be accepted after the time prescribed in the notice served under section 39.

#### **Section 49 Payment of fixed penalty after issue of summons**

- (1) Notwithstanding that proceedings have been instituted against a person who has notified the Corporation in accordance with the notice served on him under section 39(3), that he wishes to dispute liability, the defendant may pay the fixed penalty together with an additional penalty equal to the amount of the fixed penalty in accordance with subsection (2), and, if at the same time the defendant also pays to the court the sum referred to in subsection (4) by way of costs, the proceedings shall thereupon terminate.



- (2) Payment under subsection (1) shall be made to any magistracy not later than 2 clear working days before the day specified in the summons for his appearance, and the summons shall be produced at the time of payment.
- (3) In subsection (2) the expression "clear working days" excludes the day specified in the summons for the appearance of the defendant and intervening Saturdays and public holidays.
- (4) The sum to be paid by way of costs for the purpose of subsection (1) shall be the same as the sum to be paid by way of costs for the purpose of section 20B of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237).

### **Schedule 3, Form 1 and 2, Payment Instructions**

#### **PAYMENT INSTRUCTIONS**

##### **1. Payment may be made:-**

- (a) By Post Addressed to the Director of Accounting Services, P.O. Box 8000, General Post Office, HongKong; or
- (b) Personally or By an Agent at any of the following offices:-

##### **Hong Kong Island**

- ~~(i) The Treasury Headquarters, Collection and Payment Office, Immigration Tower, 1st floor, 7 Gloucester Road;~~
- ~~(ii) The Central Sub-Treasury, Central Government Offices, West Wing, 1st floor, 11 Ice House Street (side entrance to the building in Ice House Street);~~
- ~~(iii) The North Point Sub-Treasury, Max Share Centre, 1st floor, 373 King's Road;~~
- ~~(iv) The Sai Wan Ho Sub-Treasury, Eastern Law Courts Building, Ground floor, 29 Tai On Street;~~
- ~~(v) The Western Magistracy, 2A Pok Fu Lam Road;~~
- ~~(vi) The Eastern Magistracy Magistrates' Courts, Eastern Law Courts Building, 7th floor, 29 Tai On Street, Sai Wan Ho.~~

##### **Kowloon**

- ~~(vii) The Yaumati Sub-Treasury, 4th floor, Kowloon Government Offices, 405 Nathan Road (Market Street entrance);~~
- ~~(viii) The Kowloon City Sub-Treasury, Man Sang Commercial Building, 1st floor, 348-352 Prince Edward Road (corner of Prince Edward Road and Junction Road);~~



- (ix) ~~The San Po Kong Magistracy, 690 Prince Edward Road East;~~  
(x) ~~The South Kowloon Magistracy, 38 Gaseoigne Road;~~  
(xa) The Kowloon City Magistrates' Courts, Kowloon City Law Courts Building, 147M Argyle Street;  
(xi) ~~The Kwun Tong Magistracy~~ Magistrates' Courts, Kwun Tong Law Courts Building, 10 Lei Yue Mun Road, Kwun Tong;  
(xii) ~~The North Kowloon Magistracy, 292 Tai Po Road. New Territories~~  
(xiii) ~~The Fanling Magistracy~~ Magistrates' Courts, Fanling Law Courts Building, 302 Jockey Club Road 1 Pik Fund Road, Fanling;  
(xiv) The Tsuen Wan ~~Magistrates' Courts~~ Magistracy, Tsuen Wan Law Courts Building, 70 Tai Ho Road, Tsuen Wan;  
(xv) The Shatin ~~Magistracy~~ Magistrates' Courts, Shatin Law Courts Building, 1 Yi Ching Lane, Shatin;  
(xvi) The Tuen Mun ~~Magistracy~~ Magistrates' Courts, Tuen Mun Law Courts Building, 1 Tuen Hi Road, Tuen Mun;  
(xvii) ~~The District Offices at Sai Kung, Sha Tin, Tai Po, North Yuen Long, Tuen Mun, Tsuen Wan or Kwai Tsing.~~

These offices receive payments during the hours of-

Monday-Friday ~~98:45~~ a.m. to ~~4~~ 1 p.m. and 2 p.m. to 5:30 p.m.

~~(District Offices and Magistracies close 1-2 p.m.)~~

Saturday 9 a.m. to 12 noon

~~(District Offices close 11:30 a.m.)~~

## **Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570)**

### **Section 13 Payment of fixed penalty after issue of summons**

- (1) Notwithstanding that proceedings have been instituted against a person who has notified the Authority in accordance with the notice served on him under section 6(1) that he wishes to dispute liability, the person may pay the fixed penalty concerned together with an additional penalty equal to the amount of the fixed penalty in accordance with subsection (2), and, if at the same time the person also pays the sum of \$500 by way of costs, the proceedings shall thereupon terminate.

- (2) Payment under subsection (1) shall be made at any magistracy not less than 2 days before the day specified in the summons for the person's appearance, and the summons shall be produced at the time of payment.
- (3) ~~No public holiday~~ Neither a Saturday nor a public holiday shall be included in the computation of the 2 days' period mentioned in subsection (2).

### **Fixed Penalty (Smoking Offences) Ordinance (Cap. 600)**

#### **Section 13 Payment of fixed penalty after issue of summons**

- (1) Notwithstanding that proceedings have been taken against a person who has notified the Authority in accordance with a notice under section 6(2) that he wishes to dispute liability for a scheduled offence, if the person pays the full amount of the fixed penalty for the offence together with an additional penalty equal to the amount of the fixed penalty and the sum of \$500 by way of costs in accordance with subsection (2), the proceedings shall then terminate.
- (2) Payment under subsection (1) shall be made at any magistracy not less than 2 days before the day specified in the summons for the person's appearance, and the summons shall be produced at the time of payment.
- (3) ~~No public holiday~~ Neither a Saturday nor a public holiday shall be included in the computation of the 2 days' period mentioned in subsection (2).

### **Product Eco-responsibility Ordinance (Cap. 603)**

#### **Section 28L Dispute of liability for offence**

##### **28L. Dispute of liability for offence**

- (1) This section applies if a person—
  - (a) has notified the Director in accordance with a demand notice that the person wishes to dispute liability for an offence; or
  - (b) has been given leave to dispute liability for an offence under section 28J(2).



- (2) A summons issued in any proceedings against the person for the offence may be served on the person in accordance with section 8 of the Magistrates Ordinance (Cap. 227).
- (3) If—
  - (a) in consequence of the notification or leave, the person appears in any proceedings in answer to a summons; and
  - (b) the person is convicted of the offence after having offered no defence or a defence that is frivolous or vexatious,

the magistrate before whom the proceedings are heard must, in addition to any other penalty and costs, impose an additional penalty equal to the amount of the fixed penalty.
- (4) Any proceedings taken against a person falling within subsection (1)(a) must terminate if the person pays in accordance with subsection (5)—
  - (a) the fixed penalty;
  - (b) an additional penalty equal to the amount of the fixed penalty; and
  - (c) \$500 by way of costs.
- (5) Payment under subsection (4) must be made at any magistracy not less than 2 days before the day specified in the summons for the person's appearance, and the summons must be produced at the time of the payment.
- (6) ~~No~~ Neither a Saturday nor a public holiday may be included in the computation of the 2 days' period mentioned in subsection (5).

### **Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap. 611)**

#### **Section 23 Payment of fixed penalty after summons**

- (1) A defendant who has been served with a summons in relation to a complaint may pay the following amounts in accordance with subsection (2)—
  - (a) the fixed penalty;
  - (b) an additional penalty equal to the amount of the fixed penalty; and
  - (c) \$500 by way of costs.
- (2) Payment must be made to a magistrate's court not later than 2 clear working days before the day specified in the summons for the hearing of the complaint and the defendant must produce the summons when making the payment.

- (3) Payment in accordance with this section terminates the proceedings on the complaint.
- (4) The Legislative Council may, by resolution, amend the amount specified in subsection (1)(c).
- (5) In this section—  
*clear working days* (整個工作天) excludes the day specified in the summons for the appearance of the defendant and intervening Saturdays and public holidays.

END



## HONG KONG BAR ASSOCIATION

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15 May 2015

Ms. Patricia So  
for Judiciary Administrator  
Court of Final Appeal  
1 Battery Path  
Central  
Hong Kong

Dear Ms. So

### Consultation Paper on the Draft Provisions in the Judiciary (Five-day Week) (Miscellaneous Amendments) Bill 2015

I refer to your letter of 10 April 2015 which has been considered at the Bar Council Meeting held on 14 May 2015.

Please find a copy of the Comments of the Hong Kong Bar Association on the "Consultation Paper on the Draft Provisions in the Judiciary (Five-day Week) (Miscellaneous Amendments) Bill 2015" dated 15 May 2015 for the consideration of the Judiciary Administration.

Yours faithfully,

Winnie Tam SC  
Chairman

## 香港大律師公會

香港金鐘道三十八號高等法院低層二樓

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**THE HONG KONG BAR ASSOCIATION'S COMMENTS ON THE  
CONSULTATION PAPER ON THE DRAFT PROVISIONS IN THE  
JUDICIARY (FIVE-DAY WEEK) (MISCELLANEOUS AMENDMENTS)  
BILL**

1. In April 2013, the Judiciary Administrator issued a 'Consultation Paper on the Proposed Implementation of Phase III of a Five-day Week for the Judiciary' for the purpose of inviting comments on the proposed implementation of Phase III of a five-day week for the Judiciary from the legal profession and other court users ("**the 2013 Consultation Paper**").
2. On 19 April 2013, the Judiciary Administrator asked the Hong Kong Bar Association ("**the HKBA**") for comments on the 2013 Consultation Paper.
3. On 17 June 2013, the HKBA gave its comments on the 2013 Consultation Paper.
4. In April 2015, the Judiciary Administrator issued a 'Consultation Paper on the Draft Provisions in the Judiciary (Five-day Week) (Miscellaneous Amendments) Bill' ("**the Bill**") for the purpose of inviting comments on the draft provisions in the Bill ("**the 2015 Consultation Paper**").
5. The five-day week for the Judiciary has been or will be implemented in phases:
  - (a) Phase I covered court sittings and back offices without any public interface and it commenced on 1 July 2006.<sup>1</sup>
  - (b) Phase II covered services with a public interface e.g. Resource Centre for Unrepresented Litigants, Press and Public Relations Office, Libraries in the Court of Final Appeal and the District Court and it commenced on 1 January 2007. The switch to a 5-day week entailed administrative arrangements rather than legislative amendments.<sup>2</sup>
  - (c) Phase III covers services with a public interface where the implementation of a five-day week will require legislative amendments to primary and/or subsidiary legislation. These include

<sup>1</sup> See paragraph 3(a) at page 1 of the 2015 Consultation Paper.

<sup>2</sup> See paragraph 3(b) at page 2 of the 2015 Consultation Paper.



### The HKBA's comments on the 'Policy Implications'

6. The HKBA agrees that a five-day week for the Judiciary should not affect the services listed in paragraphs 7(a) to (e) (at page 3) of the 2015 Consultation Paper.

### The HKBA's comments on the 'Operations Implications'

7. The proposal is to revise the opening hours of the offices referred to in paragraphs 9(a) to 9(o) (at page 4) of the 2015 Consultation Paper ("**the Offices**") from 08:45 to 13:00 and 14:00 to 17:30 from Mondays to Fridays.<sup>4</sup> Such revision will result in an increase of the aggregate opening hours by 45 minutes.
8. The HKBA disagrees with the proposals to close the Offices on Saturdays for the following reasons.
9. First, the Bill does not contain any proposals to prevent inequality and unfairness to those who use such Offices on Mondays to Fridays. For example, as stated in paragraph 8(a) of the HKBA's comments on the "Consultation Paper on the Proposed Implementation of a Five-day Week for the Judiciary" dated 19 May 2006 viz.

*".....Often when bail conditions are imposed or varied by the requiring additional cash bail, the defendant is given time to raise the money and deposit it with the court's accounts office the following day. Closing the accounts offices on Saturday mornings means that defendants whose cash bail are increased on Fridays have 2 extra days to raise the money than those whose cash bail are increased on other week days. This disparity is, with respect, unacceptable."*

10. Secondly, the Bill does not contain any proposals to keep open the Registries and/or Account Offices of those courts performing the services listed in paragraphs 7(a) to (d) (at page 3) of the 2015 Consultation Paper on Saturdays

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<sup>3</sup> See paragraph 3(c) at page 2 of the 2015 Consultation Paper.

<sup>4</sup> See paragraphs 9 and 10 at pages 3 and 4 of the 2015 Consultation Paper.

and in particular, those Magistrates' Courts that would remain open on Saturdays to deal with fresh remand cases which have to be brought before the court in order to satisfy the 48-hour requirement in section 52 of the Police Force Ordinance, Cap. 232<sup>5</sup> and it should be noted, in section 10A(6) of the Independent Commission Against Corruption Ordinance, Cap. 204).<sup>6</sup> The Bill has not addressed the problem of how an accused person who is released by such Magistrates' Court on bail<sup>7</sup> to a return date and/or a surety would be able to pay the cash bail and comply with any other bail conditions if the Registry and Accounts Office of the Magistrates' Court is closed.

11. The consequence of the proposed amendment in section 71(1A)(b) of the Interpretation and General Clauses Ordinance, Cap. 4, when applied to the "Magistrates' Court" (see the definition of "court office" in paragraph (f)), is that cash bail granted on Saturday is considered to be paid when paid on the next following Monday. This is, inter alia, wholly artificial, will discriminate against those who are granted cash bail for the same offence on Mondays to Fridays and will put pressure on Magistrates to impose bail conditions which they would not otherwise impose because it effectively means that a Magistrate who decides to grant cash bail on a Saturday would in effect be granting bail on a recognizance (i.e. a formal undertaking or promise) to pay the cash bail on the next following Monday. The accused person would only be in breach of his bail condition if he refuses to pay the cash bail the next following Monday but he would be free on the Saturday and Sunday.

#### **The HKBA's comments on the 'Legal Implications'**

12. The HKBA agrees that to implement Phase III, it is necessary to amend the primary and subsidiary legislation to allow those offices of the Judiciary with a public interface (such as the court registries, general offices of magistrates' courts and accounts offices) to switch to a five-day week.<sup>8</sup>

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<sup>5</sup> See paragraph 7(a) at page 3 of the 2015 Consultation Paper.

<sup>6</sup> "A person who is detained at the offices of the Commission under subsection (2)(a) shall be brought before a magistrate as soon as practicable and in any event within 48 hours after his arrest unless he is sooner released, whether under subsection (2)(b) or otherwise."

<sup>7</sup> See Attorney General v Wong Chi Ming & Ors [1988] 2 HKLR 369, where Hopper J said as follows: "'Remand' is a word which is commonly used to cover the situation where a court orders a person to be kept in custody pending the return date. It is also used when a person is released by a court on bail to a return date. It is specifically used in s 79 of the Magistrates Ordinance which gives the magistrates' court power to remand an accused person, both in custody or on bail, until the return date, in respect of committal proceedings. The word does not specifically appear in s 20 of the Magistrates Ordinance but the powers in s 20 are exercisable when a defendant is brought before a magistrate under s 9(2) above."

<sup>8</sup> See paragraphs 12 (at page 5) to 21 (at page 8) of the 2015 Consultation Paper.

13. The HKBA reserves its comments on the proposed legislative amendments, until the problems referred to in paragraphs 9 to 11 above have been addressed.
14. The HKBA suggests that the legislative amendments should address all practical problems and in a fair and even-handed way.

Dated: 15 May 2015

Hong Kong Bar Association