

立法會
Legislative Council

LC Paper No. CB(4)1238/18-19
(These minutes have been seen
by the Administration)

Ref: CB4/BC/1/18

**Bills Committee on Judicial Officers (Extension of Retirement Age)
(Amendment) Bill 2019**

**Minutes of the first meeting held on
Wednesday, 3 April 2019, at 8:30 am
in Conference Room 2 of the Legislative Council Complex**

Members present : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)
Hon Dennis KWOK Wing-hang
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding

Member absent : Hon CHEUNG Kwok-kwan, JP

Public officers attending : **Agenda item II**

Administration Wing, Chief Secretary for
Administration's Office

Ms Jennifer CHAN, JP
Deputy Director of Administration (2)

Judiciary Administration

Miss Patricia SO, JP
Deputy Judiciary Administrator (Development)

Ms Wendy CHEUNG
Assistant Judiciary Administrator (Development) 1

Mrs Connie NGAN
Assistant Judiciary Administrator (Corporate Services)

Miss Winki LAM
Senior Administrative Officer (Development) 1

Miss Queenie LEUNG
Chief Judiciary Executive (Judges and Judicial Officers)

Department of Justice

Ms Karmen KWOK
Senior Assistant Law Draftsman (Acting)

Clerk in attendance : Mr Lemuel WOO
Chief Council Secretary (4)6

Staff in attendance : Mr YICK Wing-kin
Senior Assistant Legal Adviser 2

Ms Macy NG
Senior Council Secretary (4)6

Miss Katherine CHAN
Council Secretary (4)6

Ms Emily LIU
Legislative Assistant (4)6

Action

I. Election of Chairman

Dr Priscilla LEUNG, the member who had the highest precedence among members of the Bills Committee present at the meeting, presided over the election of the Chairman of the Bills Committee.

2. Dr Priscilla LEUNG invited nominations for the chairmanship of the Bills Committee. Dr Junius HO nominated Dr Priscilla LEUNG, and the nomination was seconded by Mr Holden CHOW. Dr Priscilla LEUNG accepted the nomination.

Action

3. As Dr Priscilla LEUNG was nominated for the office, Dr Junius HO, the member present who had the highest precedence among the members not nominated for the office, presided over the election of chairman. There being no other nomination, Dr Junius HO declared Dr Priscilla LEUNG elected as the Chairman of the Bills Committee. Dr Priscilla LEUNG then took the chair.

4. Members agreed that there was no need to elect a deputy chairman.

II. Meeting with the Administration

[LC Paper No. CB(3)426/18-19, File Ref: AW-275-010-010-005, LC Paper Nos. LS56/18-19 and CB(4)706/18-19(01) to (03)]

Declaration of interests

5. The Chairman declared that she had been teaching at the School of Law of the City University of Hong Kong for more than 25 years.

Discussion

6. The Administration and the Judiciary Administration ("JA") briefed members on the Judicial Officers (Extension of Retirement Age) (Amendment) Bill 2019 ("the Bill"). The Bills Committee deliberated (index of proceedings in **Appendix**).

Clause-by-clause examination of the Judicial Officers (Extension of Retirement Age) (Amendment) Bill 2019

7. The Bills Committee commenced clause-by-clause examination of the Bill. The Bills Committee examined up to clause 6 of the Bill before the end of the meeting.

Follow-up actions to be taken by the Administration/Judiciary Administration

8. The Administration/JA was requested to provide the following information:

- (a) a detailed breakdown of the establishment and strength of Judges as well as other Judicial Officers at various levels of courts;

- (b) a detailed breakdown of the numbers of Judges and Judicial Officers ("JJOs") who retired upon reaching the statutory retirement ages and who were approved to extend their services beyond the statutory retirement ages ("extended terms of office") over the past five years;
- (c) the Administration/JA's response to the suggestion of introducing a mechanism to review whether JJOs on extended terms of office were suitable to continue their service on a regular basis, to be conducted by JJOs concerned and JA together; and
- (d) the Administration/JA's response to the suggestion of formulating measures to relieve the administrative work of JJOs who were on extended terms of office so that they could focus on the judicial duties.

(Post-meeting note: JA's response was circulated to members vide LC Paper No. CB(4)776/18-19(02) on 18 April 2019.)

Invitation of views

9. The Chairman suggested and members agreed that invitations be issued to 18 District Councils and a notice be posted on the Legislative Council ("LegCo") website for written submissions on the Bill.

(Post-meeting note: On 3 April 2019, invitations were sent to 18 District Councils for written submissions on the Bill. A notice was also posted on the LegCo website on the same day. A total of two written submissions were received by the Bills Committee by the submission deadline on 18 April 2019.)

III. Any other business

10. There being no other business, the meeting ended at 10:29 am.

**Proceedings of the first meeting of
the Bills Committee on Judicial Officers (Extension of Retirement Age) (Amendment) Bill 2019
on Wednesday, 3 April 2019, at 8:30 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda item I – Election of Chairman</i>			
001043 – 001305	Dr Priscilla LEUNG Dr Junius HO Mr Holden CHOW	Election of Chairman	
<i>Agenda item II – Meeting with the Administration</i>			
001306 – 001358	Chairman	Opening remarks	
001359 – 001949	Chairman Administration Judiciary Administration ("JA")	Briefings by the Administration and JA on the Judicial Officers (Extension of Retirement Age) (Amendment) Bill 2019 ("the Bill") with the aid of a PowerPoint presentation [LC Paper No. CB(4)722/18-19(01)]	
001950 – 002533	Chairman Mr Holden CHOW Administration JA	Mr CHOW's expression of support to extend the statutory retirement ages of Judges and Judicial Officers ("JJOs"), and views on other possible measures the Administration/JA might take to address issues arising from the tight manpower situation in the Judiciary, such as attracting new blood and collecting views systematically from private practitioners on the factors that they would perceive as attractions for joining the Bench	
002534 – 003112	Chairman Dr Junius HO JA	Dr HO's expression of support to extend the statutory retirement ages of JJOs, and views on increasing the number of members of the Judicial Officers Recommendation Commission ("JORC") so as to enhance its representativeness	
003113 – 003640	Chairman JA	The Chairman's views on extending the statutory retirement ages of JJOs below the level of a Judge of the Court of First Instance to 70, and the inadequate opportunities for Judicial Officers at the Magistrates' Courts levels to be elevated to senior judicial posts The Chairman's request for the Administration/JA to provide supplementary information as listed out in paragraph 8(a) of the minutes	Administration/JA

Time marker	Speaker	Subject(s)	Action required
003641 – 004759	Chairman Dr Junius HO Administration JA	Dr HO's views on increasing the membership size of JORC by 50%, and concern about what if JJOs on the extended terms beyond their existing statutory retirement age ("extended terms of office") could become incapable of carrying out their judicial duties for health reasons	
004800 – 010113	Chairman JA	<p>Declaration of interests by the Chairman</p> <p>JA's response to the Chairman's views on extending the statutory retirement ages of JJOs below the level of a Judge of the Court of First Instance to 70, and the inadequate opportunities for Judicial Officers at the Magistrates' Courts levels to be elevated to senior judicial posts</p> <p>The Chairman's views on the workload of JJOs on extended terms of office</p> <p>The Chairman's views on measures to attract new blood and retain existing talents in the Judiciary, and relieve JJOs working on extended terms of office from administrative work so that they could focus on judicial duties</p>	
010114 – 010615	Chairman Dr Junius HO JA	Dr HO's views on the arrangements for JJOs on extended terms of office becoming incapable of carrying out their judicial duties for health reasons	
010616 – 011348	Chairman JA	The Chairman's views on introducing a mechanism for JA and the JJO concerned to mutually review on a regular basis whether the extended term of office should continue, and enquiry about the details of the terms of appointment for JJOs on such extended term	
011349 – 011630	Chairman Dr Junius HO	Dr HO's views on appointing Legislative Council Members to JORC so as to enhance its representativeness	
011631 – 011716	Chairman	The Chairman's decision on receiving written submissions from members of the public on the Bill	

Time marker	Speaker	Subject(s)	Action required
011717 – 011920	Chairman JA	<p>Commencement of clause-by-clause examination of the Bill</p> <p>Part 1: Preliminary</p> <p><u>Clauses 1 to 2</u></p> <p>Members raised no question</p> <p>Part 2: Amendments to High Court Ordinance</p> <p><u>Clause 3</u></p> <p>Members raised no question</p>	
011921 – 012919	Chairman Mr Dennis KWOK JA	<p><u>Clause 4</u></p> <p>Mr KWOK's enquiry and JA's advice that Judges of the High Court stipulated in the proposed amendments to section 11A(3)(a) would cover Judges of the Court of Appeal and Court of First Instance</p> <p>The Chairman's enquiry and JA's response regarding the reason for stipulating the retirement age of a Judge of the High Court in the proposed new section 11A(3)(a) and transitional arrangements for JJOs</p> <p>The Chairman's request for the Administration/JA to provide supplementary information as listed out in paragraphs 8(c) and 8(d) of the minutes</p>	Administration/JA
012920 – 014203	Chairman JA	<p><u>Clause 5</u></p> <p>Discussion on the details of the transitional arrangements for the smooth implementation of the Bill</p>	
014204 – 020223	Chairman Dr Junius HO Mr Dennis KWOK JA Department of Justice ("DoJ")	<p>Part 3: Amendments to District Court Ordinance</p> <p><u>Clause 6</u></p> <p>Mr KWOK's expression of support to extend the statutory retirement ages of JJOs</p> <p>The Chairman's enquiries and DoJ's advice that the word "shall" was substituted for the word "must" in section 11A(1) of the District Court Ordinance (Cap. 336) in order to comply with the current law drafting practice on format and style; JA's</p>	Administration/JA

Time marker	Speaker	Subject(s)	Action required
		<p>explanation of the repeal of "who was appointed to be such judge before 1 January 1987" under section 11A(3) of Cap. 336 owing to removal of obsolete provision as there was no such judge now</p> <p>The Chairman's enquiries and JA's response regarding the details about the terms of appointment for Judges of the District Court and that for Magistrates, as well as the remuneration package for Deputy Judges</p> <p>Dr HO's enquiry about the figures on JJOs' retirement in recent years and JA's response that six JJOs had reached their statutory retirement ages in 2018-2019, and 32 JJOs would reach their statutory retirement ages in the coming three financial years, i.e. 1 April 2019 to 31 March 2022</p> <p>The Chairman's request for the Administration/JA to provide supplementary information as listed out in paragraph 8(b) of the minutes</p>	
<i>Agenda item III – Any other business</i>			
020224 – 020235	Chairman	Closing remarks	