

**立法會**  
***Legislative Council***

LC Paper No. CB(4)1240/18-19  
(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 third meeting held on  
Wednesday, 15 May 2019, at 8:30 am  
in Conference Room 3 of the Legislative Council Complex**

**Members present :** Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)  
Dr Hon Junius HO Kwan-yiu, JP  
Hon Holden CHOW Ho-ding  
Hon CHEUNG Kwok-kwan, JP

**Member attending :** Hon Alvin YEUNG

**Member absent :** Hon Dennis KWOK Wing-hang

**Public officers attending :** **Agenda item I**  
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)

Mr Wallance NG  
Government Counsel

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

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

Miss Katherine CHAN  
Council Secretary (4)6

Ms Emily LIU  
Legislative Assistant (4)6

Action

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**I. 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, CB(4)706/18-19(02) and (03), and  
CB(4)757/18-19(01)]

Discussion

The Bills Committee deliberated (index of proceedings in **Appendix**).

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

2. Members noted section 13 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) which stipulated that "[a] person who has been appointed as the Chief Justice, a permanent judge or a non-permanent judge shall not be entitled to practise as a barrister or solicitor in Hong Kong either while he holds office as such a judge or at any time after he ceases for any reason to hold office as such a judge and shall be deemed upon and by virtue of such appointment to be not qualified to practise as a barrister or solicitor". The Administration/Judiciary Administration was requested to provide members with a list of other provisions in Hong Kong legislation which imposed prohibition on practice as barrister or solicitor for judges other than those in the Court of Final Appeal, similar to the above provision in section 13 of Cap. 484.

Completion of scrutiny of the Judicial Officers (Extension of Retirement Age) (Amendment) Bill 2019

3. The Bills Committee completed clause-by-clause examination of the Judicial Officers (Extension of Retirement Age) (Amendment) Bill 2019 ("the Bill") and would not propose any amendments to it.

Legislative timetable

4. Members noted that the Administration would later advise on the proposed date for resumption of the Second Reading debate on the Bill. The Chairman would report the deliberations of the Bills Committee to the House Committee in due course.

*(Post-meeting note: The report of the Bills Committee was issued to members of the House Committee on 13 June 2019. Members had raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 10 July 2019. On 2 July 2019, Members were informed vide LC Paper No. CB(3)782/18-19 that, given the serious damage caused by the storming of the Legislative Council Complex by some protesters on 1 July 2019 and due to safety and security reasons, the President had decided, pursuant to Rule 14(1) of the Rules of Procedure, that the Council meetings scheduled for that week and the next week (i.e. 10 July 2019) would not be held.)*

**II. Any other business**

5. There being no other business, the meeting ended at 10:02 am.

Council Business Division 4  
Legislative Council Secretariat  
26 September 2019

**Proceedings of the third meeting of  
the Bills Committee on Judicial Officers (Extension of Retirement Age) (Amendment) Bill 2019  
on Wednesday, 15 May 2019, at 8:30 am  
in Conference Room 3 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda item I – Meeting with the Administration</i>			
000528 – 000642	Chairman	Opening remarks	
000643 – 002321	Chairman Mr CHEUNG Kwok-kwan Judiciary Administration ("JA")	<p>Continuation of clause-by-clause examination of the Judicial Officers (Extension of Retirement Age) (Amendment) Bill 2019 ("the Bill")</p> <p><b>Part 4: Amendments to Pension Benefits (Judicial Officers) Ordinance</b></p> <p><u>Clause 12</u></p> <p>The Chairman's enquiry and JA's elaboration on the reasons why the original and amended section 7(1)(g) of the Pension Benefits (Judicial Officers) Ordinance (Cap. 401) provided that a Judicial Officer other than a High Court Judge or a District Judge might have to retire for the purpose of facilitating improvement in the organization of the Judiciary, by which greater efficiency or economy might be affected</p> <p>The Chairman's views that the Judiciary should put more efforts in recruiting and retaining Judicial Officers, and should review section 7(1)(g) of Cap. 401 in the future</p> <p>Mr CHEUNG's enquiry and JA's advice that District Judges stipulated in the amended section 7(1)(g) of Cap. 401 would cover Judges of the Lands Tribunal as the functions of Judges of the Lands Tribunal were carried out by District Judges under the Judiciary's cross-posting policy</p>	
002322 - 002454	Chairman JA	<p><u>Clause 13</u></p> <p>The Chairman sought clarification and JA's elaboration on the meaning of "specified age" under the proposed new section 8(3) of Cap. 401</p>	
002455 – 002644	Chairman JA	<p><u>Clauses 14 and 15</u></p> <p>Members raised no question</p>	

Time marker	Speaker	Subject(s)	Action required
002645 – 004141	Chairman Mr Holden CHOW JA	<p><u>Clauses 16 and 17</u></p> <p>The Chairman's enquiry and JA's response regarding the reason for excluding the six serving Special Magistrates of the Judiciary from the present legislative amendment exercise</p> <p>Mr CHOW's enquiry and JA's elaboration on the notice for opting for retirement age (extension) arrangement under the proposed new section 11B of Cap. 401</p>	
004142 – 010254	Chairman Mr CHEUNG Kwok-kwan Dr Junius HO Senior Assistant Legal Adviser 2 ("SALA2") JA	<p><u>Clause 18</u></p> <p>SALA2's enquiry and JA's elaboration on the meaning of "exceptional circumstances" under the proposed new section 12A(3) of Cap. 401</p> <p>The Chairman's enquiry and JA's elaboration on the meaning of "conflict of interest" under the proposed new section 12B(3) of Cap. 401</p> <p>Mr CHEUNG's enquiry and JA's advice that the eligibility of a permanent judge to be appointed to act as the Chief Justice was prescribed in section 5 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484), and the seniority of a permanent judge was to be determined in accordance with the order of precedence prescribed in section 11(b) of Cap. 484</p> <p>Discussion on hypothetical scenarios regarding the re-appointment of retired judges and non-permanent judges</p>	
010255 – 010634	Chairman JA	<p><u>Clause 19</u></p> <p>The Chairman's enquiry and JA's elaboration on "disciplinary proceedings" under the amended section 29(2)(b)(i) of Cap. 401, which was related to Article 89 of the Basic Law</p>	
010635 – 012337	Chairman Dr Junius HO Administration JA	<p><b>Part 5: Amendments to Hong Kong Court of Final Appeal Ordinance</b></p> <p><u>Clause 20</u></p> <p>Discussion on prohibition against judges' return to private practice under section 13 of Cap. 484</p>	Administration/JA

Time marker	Speaker	Subject(s)	Action required
		The Chairman's and Dr HO's request for the Administration/JA to provide supplementary information as mentioned in paragraph 2 of the minutes	
012338 – 012601	Chairman JA Department of Justice ("DoJ") SALA2	<u>Clause 21</u>  The Chairman sought clarification and DoJ's elaboration on the substitution of the word "tenure" by the word "term" under the heading of the amended section 14 of Cap. 484, and the substitution of the word "retiring" by the word "retirement" under the amended sections 14(1), 14(2)(a) and 14(3) of Cap. 484  SALA2 sought clarification and JA's response regarding the substitution of "65" by "70" under the amended section 14(2)(b) of Cap. 484	
012602 – 013236	Chairman JA	<u>Clause 22</u>  The Chairman's enquiry and JA's advice that the present legislative amendment exercise would not be applicable to overseas judges  The Chairman's enquiry and JA's elaboration on the amended section 10 of Cap. 401, which was detailed in clause 15 of the Bill, for the purpose of differentiating the current exercise from the previous pension scheme for Judges and Judicial Officers in 1988	
013237 – 013253	Chairman JA	<u>Clause 23</u>  Members raised no question	
013254 – 013514	Chairman Administration	Completion of clause-by-clause examination of the Bill  The Bills Committee's support for the resumption of the Second Reading debate on the Bill and discussion on the legislative timetable	
<i>Agenda item II – Any other business</i>			
013515 – 013549	Chairman	Closing remarks	