

立法會
Legislative Council

LC Paper No. CB(4)1694/20-21
(These minutes have been seen
by the Administration)

Ref: CB4/BC/8/20

Bills Committee on Legal Practitioners (Amendment) Bill 2021

**Minutes of the second meeting held on
Monday, 9 August 2021, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon YUNG Hoi-yan, JP (Chairman)
Hon Paul TSE Wai-chun, JP
Hon CHUNG Kwok-pan
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai, JP
Hon Tony TSE Wai-chuen, BBS, JP

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

Staff in attendance : Mr Mark LAM
Assistant Legal Adviser 7

Miss Janice HO
Council Secretary (4)6

Ms Emily LIU
Legislative Assistant (4)6

Action

I. Meeting with the Administration

[LC Paper No. CB(3)769/20-21, File Ref.: SF(37) TO CPA 272/00C, LC Paper Nos. LS92/20-21, CB(4)1308/20-21(01) to (04)]

The Bills Committee deliberated (Index of proceedings at **Appendix**).

(At 4:27 pm and 4:44 pm, the Chairman extended the meeting for 15 minutes to 4:45 pm and 5:00 pm respectively to allow sufficient time for discussion.)

Follow-up action to be taken by the Administration

Admin

2. The Administration was requested to provide the following information:

- (a) the number of legal officers (breakdown into barristers and non-barristers), not limited to those in the Department of Justice, who have not less than 10 years of advocacy experience and may be qualified to be considered for appointment as Senior Counsel by the Chief Justice; and
- (b) the wastage rate of legal officers (breakdown into barristers and non-barristers) in the past five years (especially those with not less than 10 years of advocacy experience).

(Post-meeting note: The written reply from the Administration had been circulated to members vide LC Paper No. CB(4)1370/20-21.)

II. Any other business

Legislative timetable

3. The Chairman concluded that the Bills Committee had completed the clause-by-clause examination and scrutiny of the Legal Practitioners (Amendment) Bill 2021 ("the Bill").

4. Members noted the Administration's intention to resume the Second Reading debate on the Bill at the Council meeting of 25 August 2021. The Bills Committee would then report its deliberations to the House

Committee at its meeting on 13 August 2021. Members also noted that the deadline for giving notice for moving amendments to the Bill, if any, would be 16 August 2021.

(Post-meeting note: The Chairman reported the deliberations of the Bills Committee at the House Committee meeting on 13 August 2021. The Bill was passed by the Council at its meeting on 25 August 2021.)

5. There being no other business, the meeting ended at 4:51 pm.

Council Business Division 4
Legislative Council Secretariat
26 October 2021

Bills Committee on Legal Practitioners (Amendment) Bill 2021

**Proceedings of the second meeting held on
Monday, 9 August 2021, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
000911-001114	Chairman Mr SHIU Ka-fai	Opening remarks Handling of a joint submission from members of the public provided by Mr SHIU at the meeting	
001115-001420	Chairman Administration	Briefing by the Administration on the Legal Practitioners (Amendment) Bill 2021 ("the Bill")	
001429-003937	Chairman Mr Holden CHOW Mr Tony TSE Mr SHIU Ka-fai Administration	Policy objective of the Bill of ensuring equal rights and treatments for all legal officers whilst upholding the merit-based selection principle for appointment as SC Concerns about the proposal that a legal officer who was not a barrister ("legal officer (non-barrister)") appointed as Senior Counsel ("SC") would only be entitled to use the title of SC when holding office as a legal officer Enquiries about the effectiveness of the Bill for the retention of legal officers Concerns about the confusion which might be generated with the appointment of legal officers (non-barrister) as SC Concerns about how the professional conduct of legal officers (non-barristers) after being appointed as SC would be regulated	
003938-004431	Chairman Administration	Enquiries about the relationship between the Administration and the legal professional bodies in the process of appointment of legal officers as SC Enquiries about the relationship between legal officers and the legal professional bodies	
004432-005320	Chairman Dr Junius HO Administration	Views on upholding the merit-based selection principles in considering the appointment of legal officers (non-barrister) as SC	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>Enquiries about the differences between SC and honorary SC under section 31A of the Legal Practitioners Ordinance (Cap. 159)</p> <p>Views on the demarcation of legal service providers into barristers' and solicitors' branches and suggestions to review the demarcation in future</p>	
005321-005914	<p>Chairman Mr CHUNG Kwok-pan Administration</p>	<p>Concerns about the confusion which might be generated with the appointment of legal officers (non-barrister) as SC</p> <p>Enquiries about the number of legal officers (non-barrister) who might be qualified for appointment as SC, and the experience of overseas jurisdictions which the Administration had referred to</p>	
005915-010841	<p>Chairman Mr Tony TSE Administration</p>	<p>Queries about whether legal officers (non-barrister) would prefer the new avenue under the Bill in seeking to be appointed as SC or they would prefer the existing avenue of seeking to be qualified as barristers first</p> <p>Request for statistics on legal officers who had not less than 10 years of advocacy experience and might be qualified to be considered for appointment as SC, and the wastage rate of legal officers</p> <p>Enquiries regarding the details and mechanism for the appointment of honorary SC and the professional conduct of lawyers in private practice and legal officers</p>	Admin.
010842-015234	<p>Chairman Mr CHUNG Kwok-pan Dr Junius HO Mr Holden CHOW Mr Tony TSE Mr CHUNG Kwok-pan Administration</p>	<p>Suggestion of creating a new title distinctive from "Senior Counsel" and that legal officers (non-barrister) who satisfy the substantive eligibility requirements in Cap. 159 for consideration to be appointed as SC should be entitled to use that new title during and after they leave the office as legal officers</p> <p>Concerns about the role of the two legal professional bodies in the SC appointment exercises</p> <p>Queries about disallowing legal officers (non-barrister) appointed as SC to retain the SC title after ceasing to be legal officers</p> <p>Concerns about the effectiveness of the legislative proposal for the retention of legal officers</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>Suggestion to extend similar arrangement for legal officers (non-barristers) under the Bill to solicitors in private practice so that they might be considered for appointment as SC</p> <p>Queries about the regulation of professional conduct of legal professionals (both in the private practice and the legal officers) through the self-regulatory regime of the two legal professional bodies, and the Administration's powers to intervene</p>	
015235-015850	<p>Chairman Mr Paul TSE Administration</p>	<p>Concerns relating to the demarcation of legal services providers into barristers' and solicitors' branches</p> <p>Queries on the justifications and needs for the legislative proposal and whether there would be many legal officers (non-barristers) benefitting</p>	
015851-020513	<p>Chairman Mr CHUNG Kwok-pan Dr Junius HO Administration</p>	<p>Reiteration of the suggestion that a new title distinctive from "Senior Counsel" should be created</p> <p>Enquiries regarding details of the appointment of honorary SC, including whether an honorary SC had the "right to act as an advocate in proceedings"</p>	
020514-021320	<p>Chairman Mr Tony TSE Dr Junius HO Administration</p>	<p>Clause-by-clause examination of the Bill</p> <p><u>Clauses 1 and 2</u> Members raised no question</p> <p><u>Clause 3</u> Enquiries regarding the definition of "legal officer", and the difference in presentation and rendition of "(not being a barrister)" between the English and Chinese versions of the Bill</p> <p>Enquiries about the effect of clause 3(8) of the Bill (adding the proposed new section 31A(3A)) and the effect of removing that clause from the Bill</p>	
021321-021944	<p>Chairman Mr Tony TSE Mr Paul TSE Dr Junius HO Assistant Legal Adviser Administration</p>	<p>Arrangement for resumption of the Second Reading debate on the Bill</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
021945-022440	Chairman Dr Junius HO Administration	Suggestion on allowing those legal officers (non-barristers) who had been appointed as SC to, before they cease to be legal officers, switch to the barrister's stream so that they could retain the SC title continuously	
022441-022500	The Chairman	Closing remarks	

Council Business Division 4
Legislative Council Secretariat
26 October 2021