

# 立法會

## *Legislative Council*

LC Paper No. CB(4)1050/2022

Ref : CB4/PL/AJLS

### **Report of the Panel on Administration of Justice and Legal Services for submission to the Legislative Council**

#### **Purpose**

This report gives an account of the major work of the Panel on Administration of Justice and Legal Services (“the Panel”) during the 2022 session of the Legislative Council (“LegCo”). It will be tabled at the Council meeting of 7 December 2022 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

#### **The Panel**

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000, 9 October 2002, 11 July 2007, 2 July 2008 and 26 October 2022 for the purpose of monitoring and examining policy matters relating to the administration of justice and legal services. The terms of reference of the Panel are in **Appendix 1**.

3. The Panel comprises 14 members, with Hon Martin LIAO Cheung-kong and Hon YUNG Hoi-yan elected as Chairman and Deputy Chairman respectively. The membership of the Panel is in **Appendix 2**.

#### **Major work**

4. The Panel continued to provide a forum for the exchange and dissemination of views on policy matters relating to the administration of justice and legal services.

## Policy initiatives of the Department of Justice

### *Advancing the rule of law*

5. The Panel received briefings by the Administration on the Chief Executive's 2021 Policy Address through videoconferencing on 9 February 2022, and on the Chief Executive's 2022 Policy Address on 24 October 2022. On the two occasions, the Panel was particularly concerned about the policy initiatives of the Administration in relation to the promotion of rule of law, such as the Vision 2030 for Rule of Law ("Vision 2030") and its various measures.

6. In response to members' enquiries, the Administration advised members on the details of the various education programmes, activities and contents of the teaching materials for promoting rule of law to the general public. Members also noted that the Hong Kong's Rule of Law Database was an ongoing project to collect and collate relevant and publicly available objective data to assist in assessing rule of law and facilitate research and capacity building with a view to providing a reliable and realistic source of reference about the rule of law in Hong Kong.

### *Promoting and facilitating wider use of LawTech*

7. At the meeting held on 25 April 2022, the Administration and the eBRAM International Online Dispute Resolution Centre ("the eBRAM Centre") briefed the Panel on the various initiatives on promoting and facilitating wider use of LawTech and the governance, operation and work progress of the eBRAM Centre.

8. Members expressed concerns that the use of LawTech in litigation, comparing to dispute resolution, was lagging behind and should catch up in areas such as eCourt, remote hearing, e-filing etc. In response, the Administration assured members that it was committed to taking forward the development and application of LawTech both locally and internationally. Some members suggested that LawTech should be harnessed to provide better interfaces between the courts and legal professions in the Mainland with their counterparts in Hong Kong, so as to facilitate quick and easy notifications and communication mutually.

9. At members' request, the Administration had explained in detail the spending position of the Government's injection to support the operation of eBRAM Centre since its establishment, including the setting up of an online platform and implementation of the COVID-19 Online Dispute Resolution ("ODR") Scheme, and the development and enhancement of other services (including other platforms) by the eBRAM Centre. The eBRAM Centre supplemented that the government funding had been used to cover the development of major ODR platform and LawTech projects (such as the Hong Kong Legal

Cloud (“HKLC”)), enhancement of the existing LawTech services, promotion of these services and other administrative expenditure. The eBRAM Centre also assured members that it would continue to monitor the implementation of its ODR services closely.

10. Members expressed satisfaction about the progress made by the implementation of HKLC services, with over 300 subscriptions received in a short time since its rollout in March 2022. In response, the Administration replied that although there was no specific target on the number of subscriptions for HKLC services, it would strive to increase the number of subscribers in the legal and dispute resolution sector through subsidizing eligible users in the legal and dispute resolution sector through collaborating with the eBRAM Centre in promoting the services.

11. Members questioned whether the LawTech Fund was fully and properly utilized by the legal sector. In reply, the Administration explained that to fully utilize the LawTech Fund, it had worked with the Hong Kong Bar Association and The Law Society of Hong Kong to publicize the Fund, and had also extended the deadline of application for law firms and chambers, after which 70% of the eligible law firms and chambers submitted applications. Despite these efforts, however, there was still a remaining balance of \$15.7 million. It was considered appropriate for this balance to be used to set up HKLC Fund. The Administration would continue to monitor the operations of the funds and would report to the Panel at an appropriate juncture.

#### *Report on Hong Kong Legal Week 2021*

12. The Panel was briefed at its meeting held on 25 April 2022 on the events which were held for the Hong Kong Legal Week 2021 and its achievements, and the Hong Kong Legal Week 2022 which was under planning.

13. Members considered that Hong Kong lawyers should, with their unique advantages, grasp the opportunities to expand their legal services through contacting participants from around the globe during the Hong Kong Legal Week. In designing the detailed programme of the Hong Kong Legal Week 2022, the Administration should consider how to better promote Hong Kong’s unique advantages as well as to solicit parties to dispute resolution to choose Hong Kong as the seat of arbitration. Collaborative opportunities on protecting the global order established by international laws, transcending bilateral legal exchange between professional bodies of Hong Kong and Belt and Road jurisdictions should also be explored. It was also suggested that promoting legislation on the digital economy and e-governments should be explored with a view to improving public governance through digitization.

*Asian-African Legal Consultative Organization Hong Kong Regional Arbitration Centre*

14. The Panel was briefed at its meeting held on 23 May 2022 on the background of the establishment of the Asian-African Legal Consultative Organization (“AALCO”) Hong Kong Regional Arbitration Centre (“the Centre”) and its latest development. Members in general welcomed the establishment of the Centre and were appreciative of the staunch support of the Central People’s Government (“CPG”) and the efforts of the Hong Kong Special Administrative Region (“HKSAR”) Government in putting this milestone in place.

15. Members considered that establishing the Centre would dovetail with the “Outline of the 14th Five-Year Plan for National Economic and Social Development of the People’s Republic of China and the Long-Range Objectives Through the Year 2035” which, among other things, aimed to reinforce and enhance Hong Kong’s competitive edges on different fronts, by establishing Hong Kong as a centre for international legal and dispute resolution services in the Asia-Pacific region. It also offered a valuable opportunity for Hong Kong arbitrators to learn and develop their knowledge in international law, and to explore the potential demand for arbitration services in African countries.

16. In response to members’ request for information relating to the Centre’s operation and performance, the Administration explained that the Centre would function independently and would not be a government body, as stated in the agreement signed between CPG and AALCO (“the AALCO Agreement”) and, under the AALCO Agreement, the HKSAR Government would provide necessary support to the Centre including financial support for the Centre’s operation where required, the amount of which would be discussed with the Centre in due course. Furthermore, as the Centre would need to report its business plan and financial status to AALCO every year, the Administration might have access to such information to share with members.

17. A member suggested encouraging more trade organizations and enterprises to stipulate in the agreements they signed with their business partners that the Centre would be the preferred seat of arbitration. The Administration agreed that the Chinese enterprises and countries involved in the Belt and Road Initiative would be the key promotion targets of the Centre and, as such, it would relay members’ suggestion to the Centre that introductory sessions be organized for the relevant associations of Chinese enterprises. It would also maintain dialogue with the Centre on its promotional strategies to trade associations or private enterprises, which included providing a model clause to be included in their business contracts stipulating that the Centre would be the preferred seat of arbitration.

18. In response to members' enquiries about the privileges and immunities of the Centre and its personnel afforded under the provisions of the AALCO Agreement, the Administration explained that such privileges and immunities were currently given legal effect in HKSAR by the Regulations of the People's Republic of China Concerning Diplomatic Privileges and Immunities. At the meeting, the Administration advised that it was preparing a draft order to give effect to relevant provisions of the AALCO Agreement to submit to the Chief Executive in Council.

19. The International Organizations (Privileges and Immunities) (AALCO Hong Kong Regional Arbitration Centre) Order (L.N. 140) ("the Order") was subsequently introduced to the Council on 22 June 2022 in accordance with section 3 of the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) through the negative vetting procedure. A subcommittee was formed to consider the Order and no amendment was made upon expiry of the scrutiny period.

### Work of the Law Reform Commission of Hong Kong

#### *Progress on Systematic Review of Statutory Laws of Hong Kong*

20. At the Panel meeting held on 23 May 2022, members were briefed on the progress of the systematic review on statutory laws in Hong Kong ("the Systematic Review") which included (i) adaptation of laws; (ii) consolidation of laws; and (iii) repeal of obsolete laws, and the Law Reform Commission of Hong Kong ("LRC") Secretariat's coordination of the work relating to the Systematic Review with the responsible government bureaux and/or departments ("B/Ds").

21. Members unanimously welcomed and supported the work by the LRC Secretariat in conducting the Systematic Review. They noted that some provisions or references in the statute books (such as "Crown", "Her Majesty" and "Secretary of State") already in force in Hong Kong before 1 July 1997 must be construed with such modifications, adaptations, limitations and exceptions as may be necessary in compliance with the Basic Law and the status of Hong Kong as a Special Administrative Region of the People's Republic of China in accordance with section 2A of the Interpretation and General Clauses Ordinance (Cap. 1).

22. LRC Secretariat was urged to devise a timetable for the project and provide regular updates to LegCo and the public. Some members would like to see how LegCo could assist the LRC Secretariat in carrying out the relevant work, such as following up with the responsible B/Ds which had yet to provide a substantive response to the LRC Secretariat.

23. LRC welcomed members' suggestion and undertook to report to the Panel on the progress of the adaption of laws exercise at the appropriate junctures. Members were also advised that they might monitor and follow up on the progress of adaptation of particular pieces of legislation through the appropriate LegCo Panel(s) concerning the relevant policy areas. It was added that some relatively straightforward adaptation work for provisions which did not involve policy considerations had already been completed before 2004.

24. In response to members' opinion about consolidation of laws, LRC advised that the Hong Kong e-Legislation database maintained by the Administration provided the public with easy access to the statutory laws of Hong Kong. The Administration was also keen on improving the phrasing of the provisions to improve their readability and would carefully consider whether to provide examples/illustrations to better explain the application of a law provision, but would be inclined to achieve that through other means such as public education. The Panel was further briefed on the latest progress of the Systematic Review at its meeting on 7 December 2022.

*Implementation of the recommendations made by the Law Reform Commission of Hong Kong*

25. Following the reporting mechanism proposed by the Panel and endorsed by the House Committee in 2012, the Administration briefed the Panel at its meeting held on 2 August 2022 on the progress of implementation of LRC's recommendations by B/Ds.

26. The Panel expressed concerns on the timetable for implementing recommendations in the LRC Reports on "Charities", "Enduring powers of attorney: personal care", "Criteria for service as jurors", "Hearsay in criminal proceedings", "Double jeopardy", "Adverse possession" and "Substitute decision making and advance directives in relation to medical treatment". In particular, in light of major policy needs on alleviating housing supply shortage and signature development projects to be implemented such as the Northern Metropolis development, members enquired about the progress of implementation of the report on "Adverse possession", and whether LRC would conduct, or urge the Development Bureau to conduct, a fresh study and public consultation on reforming the relevant laws to facilitate expedited land development.

27. In response, LRC advised that in choosing subjects for LRC to study, LRC Chairman and the Chief Justice (as an *ex officio* LRC member) would need to consider whether the issues involved were more ones of policy than law, and it would be more suitable for LRC to address issues of law rather than resolving those of policy. LRC was of the view that laws on land provision and development were more about policies and should be left to the relevant bureaux

to consider, and LRC would provide assistance to the bureaux as appropriate.

*Suggestions on new projects for LRC*

28. In response to a member's suggestion that LRC should consider taking the lead in working with the Administration to expeditiously reform the law to keep pace with the latest trends on e-commerce, which was rapidly evolving, LRC agreed that the laws of Hong Kong needed to stay abreast of socioeconomic development and contemporary needs of the community. For subjects relating to policy decisions, LRC could take a more proactive role in liaising with the relevant policy bureau on determining who would be in a better position to study the relevant topic.

*Consultation Paper on Cyber-Dependent Crimes and Jurisdictional Issues published by the Cybercrime Sub-committee of the Law Reform Commission of Hong Kong*

29. At the Panel meeting held on 7 November 2022, the Subcommittee on Cybercrime of LRC ("the Cybercrime Sub-committee") briefed members on the Consultation Paper on Cyber-Dependent Crimes and Jurisdictional Issues ("Consultation Paper") issued on 20 July 2022. Members in general welcomed the recommendations outlined in the Consultation Paper, and considered that the existing prosecution regime against cybercriminals, namely laying charges for "access to computer with criminal or dishonest intent" under section 161 of the Crimes Ordinance (Cap. 200), was inadequate.

30. In response to members' requests, the Cybercrime Sub-committee had elaborated on how the recommended legislative reforms could better combat cybercrimes than the existing legislation, and how unauthorized access in cyberspace would be dealt with. As regards the business community's concern whether certain defences would be prescribed in the new legislation to protect businesses providing network services against contravening the law inadvertently, the Cybercrime Sub-committee advised that the proposed offence of illegal interception of computer data intended to prohibit unauthorized interception, disclosure or use of computer data for a dishonest or criminal purpose, but not acts performed without criminal intent.

31. As regards members' enquiries on how the consultation exercise would dovetail with the Security Bureau's legislative work on cyber security, LRC Secretariat advised that while the primary focus of the Security Bureau's work was on the protection of cyber security relating to critical infrastructures, such as power grids, the scope and focus of the Cybercrime Sub-committee were to consider cybercrimes from a criminal law point of view in general, which aimed to strike a balance between the rights of the relevant stakeholders. At the

meeting, members also discussed issues relating to extra-territorial jurisdiction, cross-jurisdictional enforcement, and relationship between fake news and cybercrime.

### Work of the Judiciary Administration

#### *Construction of a District Court Building at Caroline Hill Road*

32. At the meeting held on 28 March 2022, the Judiciary Administration (“Jud Adm”) briefed members on the proposed construction of a District Court Building (“DCB”) on Caroline Hill Road to re-provision and co-locate the District Court (“DC”), the Family Court and the Lands Tribunal (“the construction project”). The construction works were expected to commence in mid-2022 for target completion in end 2026. Considering the time required for installation and testing of all the necessary systems and equipment, the commissioning of the new DCB was expected to be in 2027.

33. Whilst expressing support for the proposal in general, members were concerned about the long time required for construction and whether the project could be completed on target. Jud Adm explained that the time required was a realistic and reasonable estimate based on its actual experience in preparing for the commissioning of the West Kowloon Law Courts Building. The “design-and-build” procurement model adopted for the construction project should also help achieve a speedy and cost-effective completion of DCB. Jud Adm assured members that it would closely monitor the works progress, and would consider reporting progress of the construction project to the Panel.

34. On members' enquiries about optimizing the use of space and technology in DCB, Jud Adm explained that the plot ratio had been optimally utilized according to the latest construction plan. It also advised that all courtrooms, chambers for judges and judicial officers and various other meeting rooms in DCB would be equipped to support the conduct of remote hearings, especially for civil cases. Besides, the Judiciary was implementing at full steam the integrated court case management system (“iCMS”), which enabled the use of e-filing and would first be implemented in the civil proceedings of DC and the Summons Courts of Magistrates’ Courts in 2022. This would be followed by the High Court and it was expected that iCMS would be fully implemented before the commissioning of DCB.

35. In response to members’ concern about the Family Court facilities and mediation services for family cases, Jud Adm advised that DCB would be designed and built on the basis of a “clustering and share-use” concept, so that the various facilities were designed for multi-purposes and might be used interchangeably should the need arose. Jud Adm also explained that while the Judiciary would



not directly provide mediation services, if a Family Court judge considered that a family case (including dispute over ancillary relief) was suitable to be settled by mediation, Jud Adm would facilitate the referral of such cases to qualified mediators.

36. The Panel supported the submission of the construction project to the Public Works Subcommittee of LegCo, which discussed and endorsed the proposal at its meeting on 27 April 2022. The project was approved by the Finance Committee at its meeting on 20 May 2022.

#### Consultation on legislative proposals

37. The Panel continued to receive briefings by the Administration and Jud Adm and provide views on legislative proposals in respect of policy matters relating to the administration of justice and legal services.

#### *Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Bill 2022*

38. At the Panel meeting held on 28 March 2022, members were briefed by the Administration on a draft of the Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Bill 2022 (“the Arbitration Bill”) which sought to implement outcome related fee structures (“ORFSs”) for arbitration (“ORFSA”) in Hong Kong on the recommendations of LRC.

39. Members enquired about whether an analysis on how the introduction of ORFSA would change the outlook for the dispute resolution sector in Hong Kong had been conducted and whether an overall shift towards the use of arbitration was envisaged. In response, the Administration advised that after studying the situations in other jurisdictions which had implemented similar fee structures, the Outcome Related Fee Structures for Arbitration Sub-committee of the LRC (“ORFSA Sub-committee”) did not observe an obvious rise in the number of conflicts of interests or misconduct of lawyers in arbitration cases, and that similar fee structure regimes had been implemented smoothly in those jurisdictions. However, neither LRC nor Department of Justice had analysed whether the introduction of ORFSA would lead to an increase in the number of arbitration cases.

40. Some members expressed the worry that ORFSs might be extended to contentious proceedings other than arbitration (e.g. litigations) without in-depth studies and public consultations, which could induce more opportunistic or frivolous lawsuits. They called for the Administration’s assurance that ORFSs for litigations would not be implemented arbitrarily without conducting extensive

public consultations and acquiring enough support.

41. The Administration confirmed that the Arbitration Bill was to implement the relevant LRC's recommendations which only covered the implementation of ORFSA, and there was no plan to extend ORFSs to litigation without detailed study and extensive consultation. It further advised that LRC had conducted a public consultation in 2005 on conditional fees for legal actions not limited to arbitration and, in the relevant report published by LRC in 2007, suggested that it was not the appropriate moment to introduce conditional fees at the time. Nevertheless, some of the concerns raised then were now considered outdated in the context of arbitration, and it was considered appropriate to introduce ORFSA in Hong Kong with appropriate safeguards.

42. Noting that the Arbitration Bill sought to provide the legal framework for ORFSA, some members enquired about how it would cater to various real-life situations in its implementation, especially where there were sudden changes such as the lawyer representing a party in an ORFSA agreement died or became bankrupt, or a client decided to change his/her lawyer. The Administration advised that the issues raised by members could be dealt with by way of subsidiary legislation to be introduced after the Arbitration Bill was enacted. The general principle was that the party and the lawyer entering into an ORFSA agreement would have the flexibility to dictate the terms and conditions in the agreement, such as payment schedules. LRC had also recommended that the terms of ORFSA should include the circumstances under which an ORFSA agreement could be terminated.

43. Some members considered that as ORFSA would affect users of dispute resolution services in their choice of services, the Administration should consult enterprises other than the legal professions, in particular multinational corporations, on the Arbitration Bill. On the other hand, as ORFSA was a brand new and important subject to the legal and arbitration sectors, the relevant legal professional bodies should also be thoroughly consulted to ensure smooth implementation.

44. The Administration advised that before the LRC Report on ORFSA was published, LRC had conducted a public consultation for 3 months and solicited the views of various stakeholders across different sectors, including the Hong Kong General Chamber of Commerce and the Consumer Council. Upon publication of the LRC Report, the Advisory Committee on Promotion of Arbitration whose membership included stakeholders from the legal and arbitration sectors were also consulted. The Administration also advised that the subsidiary legislation would be carefully drafted based on the recommendations of LRC.

45. After consulting the Panel, the Administration introduced the Arbitration Bill into LegCo at the Council meeting of 30 March 2022. The Arbitration Bill was passed by LegCo at the Council meeting of 22 June 2022.

*Arbitration (Outcome Related Fee Structures for Arbitration) Rules*

46. The Administration briefed the Panel on the draft Arbitration (Outcome Related Fee Structures for Arbitration) Rules (“the Arbitration Rules”) prepared by the Advisory Board on ORFSA pursuant to section 98ZM of the Arbitration Ordinance (Cap. 609) at the Panel meeting on 7 November 2022. Members in general supported the Arbitration Rules as it would maintain Hong Kong’s competitiveness, strengthen its position as a centre for international legal and dispute resolution services and interface with the Mainland’s policy on promoting arbitration. It would also attract overseas talents in the field of arbitration to work in Hong Kong and enterprises to choose Hong Kong as the seat for arbitration.

47. At the meeting, members raised concerns about the number of disputes relating to similar ORFS regimes which had arisen in jurisdictions after these regimes were implemented, and that the international arbitration cases would be concentrated in a handful of large-scale and/or international law firms which had experience with ORFSA in other jurisdictions.

48. The Administration advised that, of those jurisdictions where similar ORFS regimes were implemented which the ORFSA Sub-committee had studied, “satellite” litigation related to ORFS regimes was not common while the number of cases making use of ORFS gradually began to increase after implementation in these places for some time. The Administration also explained that the implementation of the ORFSA regime aimed at benefitting the arbitration and dispute resolution sector as a whole, which could help small and medium sized law firms to enter the market and take up more cases, depending on other factors such as the specialization and experience of the law firms, as it would provide an additional funding option for clients and lawyers to adopt to suit their needs.

49. At the meeting, members also expressed concerns about the Advisory Body’s plan to monitor the operation of the provisions on ORFSA in the future, the inadequacy of training provided to meet the legal industry’s demand, and urged the Administration to collaborate with the legal professional bodies to organize more training courses for lawyers from law firms of all sizes to prepare them for the implementation of the ORFSA regime. The Administration informed members of its plan to introduce the Arbitration Rules into LegCo for negative vetting and was hopeful that the Arbitration Rules, together with the uncommenced provisions of Cap. 609, could come into operation on 16 December 2022. Members raised no objection to the plan at the meeting.

50. After consulting the Panel, the Administration introduced the Arbitration Rules into LegCo on 16 November 2022 under the negative vetting procedure.

*Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Bill and Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Rules*

51. At the Panel meeting held on 28 March 2022, members were briefed on the key features of the draft Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Bill (“REJ Bill”) and the draft Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Rules (“REJ Rules”). The REJ Bill sought to implement the Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region (“REJ Arrangement”)<sup>1</sup>, which was signed by HKSAR Government and the Supreme People’s Court in 2019.

52. Members noted that the Administration had conducted a public consultation on the REJ Bill and the REJ Rules between December 2021 and January 2022, and met with some stakeholders. On the whole, most respondents to the public consultation indicated their support for the implementation of the REJ Arrangement through the REJ Bill and REJ Rules.

53. Members generally supported the REJ Arrangement and considered that the legislative proposal would reduce the need to re-litigate judgments granted in the Mainland in HKSAR or vice versa. Furthermore, it would save cost, improve access to justice, remove legal barriers and enhance Hong Kong’s competitiveness as a regional centre for legal and dispute resolution services in the Greater Bay Area.

54. The Administration pointed out that whilst the scope for application of the Choice of Court Arrangement was comparably more limited than that of the REJ Arrangement, the number of applications for enforcement of Mainland judgments in Hong Kong under Mainland Judgments (Reciprocal Enforcement) Ordinance (Cap. 597) had been steadily increasing in recent years, with a total of over 120 applications received as of February 2021 according to the figures provided by the Judiciary. It was envisaged that with a more comprehensive coverage, there could be more applications for enforcement of Mainland judgments under the REJ Bill.

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<sup>1</sup> The original document signed was in Chinese titled 《關於內地與香港特別行政區法院相互認可和執行民商事案件判決的安排》。

55. Noting that the Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of HKSAR had come into operation, enabling parties to arbitral proceedings which were seated in Hong Kong and administered by designated arbitral institutions to seek assistance from the relevant courts in the Mainland, some members considered that there was a need for similar interim measures to be available to a party seeking recognition and enforcement of a Mainland judgment upon the passage of the REJ Bill. In reply, the Administration explained that the current legislative regime for applications for interim relief in relation to proceedings commenced or to be commenced in Hong Kong under the High Court Ordinance (Cap. 4) would be applicable when a Mainland judgment was to be/had been registered under the REJ Bill.

56. After consulting the Panel, the Administration introduced the REJ Bill into LegCo at the Council meeting of 4 May 2022. The REJ Bill was passed by LegCo at the Council meeting of 26 October 2022.

#### *Family Procedure Bill*

57. At its meeting held on 2 August 2022, the Panel was briefed by the Judiciary on the proposed Family Procedure Bill (“FP Bill”) to legislate for a consolidated set of procedural rules with a view to making the family justice system more efficient, cost-effective and user-friendly.

58. Considering that Hong Kong was lagging behind other jurisdictions in optimizing the procedures on family justice, members called for an early introduction of FP Bill and the Family Procedure Rules (“FP Rules”) into LegCo. Noting that the commencement of the Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance (Cap. 639) had facilitated prompt enforcement of Mainland judgements in Hong Kong, they also urged the Judiciary to speed up the legislative process of FP Bill and FP Rules to facilitate prompt handing down and enforcement of Hong Kong judgments as well to keep pace.

59. Jud Adm advised that upon the passage of FP Bill, the Family Procedure Rules Committee (“FPRC”) would then be established and come into operation. FPRC would then examine the draft FP Rules before putting them forward for stakeholders’ consultation in about a year’s time and then for introduction to LegCo thereafter.

60. Considering that the nature of family cases was highly relevant to the general public, members remarked that user-friendly documents and forms would bring great convenience to those unrepresented litigants, especially when they were facing hardship caused by their family disputes. Members enquired on

whether the prospective FP Rules would enable easy access to these documents by court users, and whether the relevant Practice Directions would be consolidated and improved.

61. In reply, Jud Adm advised that the forms and court documents for family proceedings would be consolidated under the reformed procedural regime. As the FP Rules would be underpinned by Practice Directions, the documentation requirements provided by the Practice Directions would also be reviewed to identify room for streamlining.

62. In response to members' enquiries on whether more representatives from the legal profession would be invited to join FPRC and about the quorum requirement, Jud Adm explained that the composition and approach of the FPRC were modelled on those adopted for the two rules committees established for the High Court and DC. The proposed number of representatives from the legal professional bodies (one barrister and one solicitor) and the quorum requirement (four) should enable the smooth and efficient operation of the committee. In addition, FP Rules would be put forward for consultation at a later stage, and stakeholders' views would be duly taken into account.

#### 2022-2023 Judicial service pay adjustment

63. At the Panel meeting on 7 November 2022, members were briefed on the proposed judicial service pay adjustment for 2022-2023. Members noted that the Chief Executive in Council had, on the recommendation of the Standing Committee on Judicial Salaries and Conditions of Service, decided that the pay for judges and judicial officers ("JJOs") for 2022-2023 should be increased by 2.5%.

64. Members in general supported the proposed pay adjustment but urged the Administration to work closely with the Judiciary to ensure that the remuneration package and the working conditions of JJOs were attractive enough to recruit and retain talents as mere improvements in remuneration package for JJOs were insufficient which could not match up with the remuneration in the legal sector. There was a view that many of the legal practitioners who joined the Judiciary as JJOs could be driven by their sense of duty in serving the public.

65. Some members expressed their concern on the lengthening of the wait time for civil cases for trials. They considered that the current recruitment difficulties faced by the Judiciary had impact on the Judiciary's capacity to expedite trials of cases. The Administration noted members' views and replied that it would continue to support the Judiciary's resources needs, including in manpower, facilities and application of technologies, with a view to improving the working conditions and enhancing the attractiveness of service as JJOs.

## Other issues

66. During the session, the Panel also received information papers from the Jud Adm and the Administration respectively as listed below. All the information papers had been circulated to members for reference.

### *Judiciary Administration*

- (i) Information paper on the amendment rules and commencement notice for stage 1 of the Information Technology Strategy Plan;
- (ii) Information paper on the public consultation on the draft Courts (Remote Hearing) Bill;

### *The Administration*

- (iii) Information paper on the Sale of Goods (United Nations Convention) Ordinance (Cap. 641) - timeline for the coming into operation of the Ordinance and related promotion;
- (iv) Information paper on Annual Reviews of Financial Eligibility Limits of Legal Aid Applicants and Director of Legal Aid's First Charge; and
- (v) Information paper on Biennial Review of Criminal Legal Aid Fees, Prosecution Fees and Duty Lawyer Fees.

## **Meetings held**

67. From January to December 2022, the Panel held a total of 9 meetings including one policy briefing by videoconferencing. The Panel also held a policy briefing cum meeting on 24 October 2022 to receive briefings by the Secretary for Justice and the Director of Administration on the Chief Executive's 2022 Policy Address in respect of the policy initiatives of DoJ and those relevant to the Administration Wing, Chief Secretary for Administration's Office.

**Panel on Administration of Justice and Legal Services**

**Terms of Reference**

1. To monitor and examine, consistent with maintaining the independence of the Judiciary and the rule of law, policy matters relating to the administration of justice and legal services, including the effectiveness of their implementation by relevant officials and departments.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.



**Panel on Administration of Justice and Legal Services**

**Membership list for the 2022 session**

<b>Chairman</b>	Hon Martin LIAO Cheung-kong, GBS, JP
<b>Deputy Chairman</b>	Hon YUNG Hoi-yan, JP
<b>members</b>	Hon Tommy CHEUNG Yu-yan, GBM, GBS, JP Dr Hon Priscilla LEUNG Mei-fun, SBS, JP Hon Paul TSE Wai-chun, JP Hon Jimmy NG Wing-ka, BBS, JP Dr Hon Junius HO Kwan-yiu, JP Hon Holden CHOW Ho-ding Hon Doreen KONG Yuk-foon Dr Hon Hoey Simon LEE, MH, JP Hon LAM San-keung, JP Hon Maggie CHAN Man-ki, MH, JP Hon Carmen KAN Wai-mun Hon YIM Kong

(Total : 14 members)

<b>Clerk</b>	Mr Lemuel WOO
<b>Legal Adviser</b>	Miss Joyce CHAN

\* Change in membership is shown in Annex.

## Annex to Appendix 2

### Panel on Administration of Justice and Legal Services

#### Change in membership in Year 2022

Member	Relevant date
Hon CHEUNG Kwok-kwan, JP (Chairman)	Up to 18 June 2022

For **changes in LegCo membership**, please refer to the link below:

(<https://www.legco.gov.hk/en/members/legco-members/changes-in-legco-membership.html>)