

Statute Law (Miscellaneous Provisions) Bill 2017 to be introduced in LegCo

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The Government will introduce the Statute Law (Miscellaneous Provisions) Bill 2017 in the Legislative Council (LegCo) to propose a number of miscellaneous amendments to various Ordinances for the purpose of updating and further improving the relevant legislation.

A spokesman for the Department of Justice (DoJ) said today (May 31) that the LegCo Panel on Administration of Justice and Legal Services has been consulted on the Bill. The Bill will be gazetted on June 2, and will then be introduced to the LegCo on June 14.

The major proposed amendments include:

(1) To amend the Criminal Procedure Ordinance (Cap. 221) and the Live Television Link and Video Recorded Evidence Rules (Cap. 221J)

Currently, under section 79B of the Criminal Procedure Ordinance (Cap. 221), the court may, on its own motion or upon application, permit a person falling within any of the following three categories to testify by way of a live television link:

- (a) a child (other than a defendant) giving evidence in proceedings in respect of an offence of sexual abuse or cruelty, or of an offence (other than one triable summarily only) which involves an assault on, or injury or a threat of injury to, a person;
- (b) a mentally incapacitated person (including a defendant) giving evidence in proceedings in respect of an offence that is triable otherwise than summarily only; or
- (c) a "witness in fear" giving evidence in proceedings in respect of any offence.

A "witness in fear" is defined in section 79B(1) to mean a witness whom the court hearing the evidence is satisfied, on reasonable grounds, is apprehensive as to the safety of himself or any member of his family if he testifies. While it is possible that a complainant of sexual offences can be a "witness in fear", and hence be covered by the existing section 79B, it is not necessarily so. A complainant or witness of a sexual offence, though not "in fear" as defined in the current legislation, ought nonetheless to be treated with understanding, fairness and dignity.

Accordingly, DoJ proposes to add a new provision to section 79B of Cap. 221, so that where a complainant within the meaning of section 156(8) of the Crimes Ordinance (Cap. 200) is to give evidence in proceedings in respect of a specified sexual offence within the meaning of section 117(1) of Cap. 200, the court may, on application or on its own motion, permit the complainant to testify by way of a live television link, subject to such conditions as the court may consider appropriate in the circumstances. A consequential amendment will also be made to section 83V(13) of Cap. 221 so that the existing power of the Court of Appeal to examine a witness in accordance with section 79B of Cap. 221 will be extended to cover a complainant of a specified sexual offence. Further, rule 3 of the Live Television Link and Video Recorded Evidence Rules (Cap. 221J), which concerns the procedure of an application made under section 79B, will be amended accordingly to cover such a complainant.

(2) To amend the High Court Ordinance (Cap. 4), the District Court Ordinance (Cap. 336) and the Competition Ordinance (Cap. 619) so as to clarify the jurisdiction and powers of temporary registrars of different ranks during the period for which he is appointed.

(3) To amend the District Court Ordinance (Cap. 336) to provide for representation of the Secretary for Justice in the

composition of the District Court Rules Committee so as to make its composition consistent with all of the Rules Committees set up under various Ordinances for the making of court rules.

(4) To amend the English text of the Mainland Judgments (Reciprocal Enforcement) Ordinance (Cap. 597) so as to maintain consistency with the English usage of the same term in the Mainland in making references to a specific level of courts in the judicial system there.

(5) To amend the Legal Practitioners Ordinance (Cap. 159), the Admission and Registration Rules (Cap. 159B), the Laws (Loose-leaf Publication) Ordinance 1990 (51 of 1990), the Legislation Publication Ordinance (Cap. 614) and other miscellaneous and technical amendments.

Ends/Wednesday, May 31, 2017