

## Forests and Countryside (Amendment) Bill 2006 (Decision on 18 January 2007)



Since the last issue (December 2006), the LegCo President has made one decision under Rule 51(3) and (4) of the Rules of Procedure of the LegCo<sup>1</sup> on 18 January 2007 in respect of the Forests and Countryside (Amendment) Bill 2006. The Bill was proposed by Hon Choy So-yuk. The Bill provides for the protection of old trees (being trees of or over one hundred years old which are of preservative value), and of valuable trees (being large trees, trees of rare species, trees of historical, cultural or memorial significance, trees of special ecological or scientific research value and certain other specified trees which are of preservative value).


Having taken into account the views of the Secretary for the Environment, Transport and Works and Hon Choy So-yuk, together with the advice of Counsel to the Legislature, the LegCo President ruled that the proposed Forests and Countryside (Amendment) Bill 2006 did not relate to political structure. The Bill, however, related to the operation of the Government and Government policies within

the meaning of Rule 51(3) and (4) of the Rules of Procedure. The LegCo President did not consider it necessary to form an opinion on whether the Bill related to public expenditure for the purpose of this ruling.

The LegCo President considered that the Bill related to Government policies on protection of trees. The Bill, if enacted, would extend the protection scheme accorded to forests and countryside covered by the Forests and Countryside Ordinance to old and valuable trees. In addition, the Government had stated in LegCo that since a series of effective measures were available for tree protection, it was the Government's policy not to introduce new legislative measures for tree protection at this stage.

The LegCo President took Counsel's advice that when assessing the effect of the Bill on the operation of the Government, the key question the LegCo President should consider was whether the

<sup>1</sup> For further discussion on the operation of Rule 51 of the Rules of Procedure of the LegCo, please refer to *The Focus* at p 15 of Issue No 1 of the Bulletin.


**LegCo President's  
Decision on  
Member's Bill**

proposed new statutory requirements would result in changes in the organization structure of the Government, which included distribution of responsibilities among government departments and their procedure or working process, in implementing the new requirements contained in the Bill. The answer to the question was that imposing an additional statutory requirement of applying for special permits from Director of Agriculture, Fisheries and Conservation ("DAFC") to carry out excavation and building works in tree protection zones clearly changed the present

procedure for carrying out excavation or building works on Government land.

The LegCo President was therefore of the view that the Bill would have effect on the operation of the Government. Such effect was obvious because the requirement of obtaining a special permit from DAFC in respect of tree protection zones was a new requirement provided by law. The effect was also not a temporary one because this requirement, once enacted, would remain in force until it was amended or repealed.

## ABBREVIATIONS

<b>BL</b>	Basic Law / Basic Law Article
<b>BoR</b>	Hong Kong Bill of Rights
<b>CA</b>	Court of Appeal
<b>CE</b>	Chief Executive
<b>CE in C</b>	Chief Executive in Council
<b>CFA</b>	Court of Final Appeal
<b>CFI</b>	Court of First Instance
<b>CPG</b>	Central People's Government
<b>ExCo</b>	Executive Council
<b>HKSAR</b>	Hong Kong Special Administrative Region
<b>HKSARG</b>	Government of the HKSAR
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>LegCo</b>	Legislative Council
<b>NPC</b>	National People's Congress
<b>NPCSC</b>	Standing Committee of the NPC
<b>PRC</b>	People's Republic of China

### **Legal Policy Division Department of Justice**

4/F, High Block, Queensway Government Offices  
66 Queensway, Hong Kong  
Enquiries: 2867 2167  
Fax: 2869 0720  
E-mail: [lpd@doj.gov.hk](mailto:lpd@doj.gov.hk)  
Internet Home Page Address: [www.doj.gov.hk](http://www.doj.gov.hk)

### **National Studies And Training Services Unit Civil Service Training And Development Institute Civil Service Bureau**

4/F, North Point Government Offices  
333 Java Road, North Point, Hong Kong  
Enquiries: 2231 3976  
Fax: 2541 4038  
Internet Home Page Address: [www.csb.gov.hk](http://www.csb.gov.hk)

### **Constitutional and Mainland Affairs Bureau**

3/F, Main and East Wings  
Central Government Offices  
Lower Albert Road, Hong Kong  
Enquiries: 2810 2059  
Fax: 2179 5284  
E-mail: [cmabenq@cmab.gov.hk](mailto:cmabenq@cmab.gov.hk)  
Internet Home Page Address: [www.cmab.gov.hk](http://www.cmab.gov.hk)

This Bulletin is also available in the "Laws and Legal Information" section of the Central Cyber Government Office (Intranet address: [portal.ccgo.hksarg](http://portal.ccgo.hksarg)) and under the column "Publications" of the home page of the Department of Justice (Internet address: [www.doj.gov.hk/eng/public/pub20030002.htm](http://www.doj.gov.hk/eng/public/pub20030002.htm)).