

Speech by SJ at Mediation Conference 2022 (English only)(with photo)

Following is the opening remarks by the Secretary for Justice, Ms Teresa Cheng, SC, at the Mediation Conference 2022 under Mediation Week 2022 today (May 6):

Good morning. Distinguished guests, ladies and gentlemen, welcome to the Mediation Conference 2022. We are pleased to host our biennial Mediation Conference during the Mediation Week 2022 with different thematic events on family, medical, peer mediation and more spanning across the first full week of May. May I begin with a note of thanks to our co-organiser, the Hong Kong Trade Development Council, and our supporting organisations for their staunch support to our work on promoting mediation over the years.

We are very privileged to be hosting our Conference this year as one of the enhanced celebration events for the 25th anniversary of the establishment of the Hong Kong Special Administrative Region. The theme of the Mediation Week 2022, "Mediate First – Harmony from Now to Beyond", encapsulates our philosophy of mediation. Harmony embraces changes and differences between people. It bonds us together as a nation. And mediation is the effective tool that paves our way to harmony – one of the essences in our Chinese culture. At this significant juncture of returning to our motherland for a quarter of a century, this Conference provides an excellent opportunity for us to appraise what we have achieved in mediation and explore our way forward in the innovation-driven era of new technologies and associated challenges.

The Mediation Week 2022 began with our young masters of the future who demonstrated their passion and understanding on the use of mediation at the 5th Hong Kong Secondary School Peer Mediation Competition Final. I am pleased to hear from these brilliant young minds that mediation skills such as reframing issues is helping them and their peers to build a positive mindset and harmonious relationships in and outside schools.

Throughout the Mediation Week, our renowned speakers have canvassed on topical issues relating to how mediation can help to achieve harmony across a broad spectrum such as peer and school, matrimonial and family, medical, small claims and investor-state disputes. The promotion on wider use of mediation as an effective and versatile tool for dispute resolution will benefit all walks of life and strengthens our rule of law by helping the public to gain access to justice at a lower cost with greater chance of preserving ongoing relationships.

It is no secret that Hong Kong has always enjoyed the unique status of being the only common law jurisdiction within China and all the privileges coming from the unprecedented characteristic of "one country, two systems and three jurisdictions" in the Greater Bay Area (GBA). What is pivotal is how we can fully capitalise on Hong Kong's distinctive advantages and potentials amidst the rapid bloom of the GBA and make good use of its indispensable role

that Hong Kong has under the Outline Development Plan for the GBA.

With the joint effort of the Guangdong, Macao and Hong Kong legal departments at the GBA Mediation Platform, the GBA Mediator Accreditation Standards and the GBA Mediator Code of Conduct Best Practice have been endorsed at the third Joint Conference and have come into effect on December 30, 2021.

The promulgation of the unified accreditation standards and code of conduct best practice for mediators in the GBA is a major milestone in Hong Kong's integration into the GBA development. It will also foster the professional development of the mediators in the GBA, thereby enhancing the confidence of mediation users within the GBA and the development of GBA mediation services towards standardisation and professionalism.

To take forward our commitment of bridging the connectivity of the legal interface and facilitating the harmonisation of laws and dispute resolution frameworks in the GBA, consolidated effort is being taken in devising guiding principles for the mediation rules in the GBA.

Having this guidance and reference in place, coupled with the increasing demand for mediation services in the GBA vis-à-vis the closer interaction and economic co-operation between Hong Kong and the Mainland, it is perhaps high time for us to consider whether we can pursue reciprocal recognition and enforcement of mediated settlement agreement in the GBA.

The United Nations Convention on International Settlement Agreements Resulting from Mediation, or otherwise known as the Singapore Convention, has entered into force on September 12, 2020. Although China is a signatory to the Convention, it is not applicable to the cross-boundary mediated settlement agreements within the GBA for the obvious reason that this international Convention is not applicable to the enforcement of cross-boundary mediated settlement agreements within China.

It is crucial for us therefore to devise an effective enforcement mechanism that suits our need in the GBA. Although the Convention may provide us with guidance and reference, the definition of mediated settlement agreement under the Convention is not exactly in line with that under the mediation framework in the Mainland. The Convention also lacks the reciprocity requirement like the New York Convention. And therefore modelling on the mechanism of reciprocal recognition and enforcement of judgments in family cases as was implemented under the Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance (Cap. 639) that came into operation on February 15 this year, that may actually be a better option for us.

The Joint Conference of the GBA legal departments will be a perfect platform to explore the feasibility of establishing a pilot scheme for the implementation of reciprocal recognition and enforcement of mediated settlement agreements within the GBA, and maybe starting with family mediation settlement agreements. We look forward to exchanging views on this idea with our Guangdong and Macao counterparts.

Against this background and the reciprocal recognition and enforcement of judgments mechanism in family cases, we are very honoured to have invited my very good friend Professor Liu Jingdong (Director of the International Economic Law Department at the Institute of International Law of the Chinese Academy of Social Sciences) to deliver a keynote speech on the subject and related issues. Furthermore, our speakers in Panel Session 1 today are going to share their insights on the potential of and the need for reciprocal recognition and enforcement of family mediated settlement agreements in the GBA in light of the new Ordinance for judgments and the increasing demand for cross-border family mediation services.

In the midst of the global pandemic, mediation takes on a new dimension in the rise of online dispute resolution (ODR). The synergy of mediation and ODR amplifies the flexibility in mediation and adaptability in ODR, and shall continue to flourish in the era of transformation in the legal and dispute resolution services. You will hear from our speakers on Panel 2 on how the latest lawtech and ODR under the "Digital New Normal" is providing us with greater cybersecurity, flexibility and convenience to mediation users.

We strive to meet every new challenge coming from the pandemic on planet earth to the metaverse in the virtual world with our state-of-the-art lawtech. Blockchains, cryptocurrencies, non-fungible tokens (NFTs), and initial coin offerings are all sorts of novelties and symbols of innovations and technology breakthroughs. Everyone can be an artist and art collector now by creating and trading their own NFT art in static and dynamic images, music, videos and more. But have we looked deep enough to understand how the metaverse runs, the potential legal issues and risks in these digital transactions? To unveil the mystery of the metaverse, we are very lucky to hear from the experts, Mr Yat Siu (Co-founder and Chairman of Animoca Brands and Founder and CEO of Outblaze) and other speakers from Panel Session 3 on what exactly these virtual and crypto assets are, how they can be traded or exchanged, what are the potential pitfalls in the metaverse and, importantly, how mediation may come to our rescue.

I hope we can exchange more ideas at today's Conference on how we can excel together in this journey of yielding further high-quality development in Hong Kong, the GBA and beyond. To this end, we shall continue to keep abreast of the latest developments in the global dispute resolution arena and invest in our legal infrastructure and talents to tackle the rising challenges in connecting Hong Kong with the other cities within the GBA and of course to the world.

Ladies and gentlemen, may I close by thanking you all for your participation and support throughout the Mediation Week 2022, and wishing you all a very enjoyable and fruitful discussion today. Thank you very much.



[DoJ publishes latest edition of guide to judicial review proceedings: “The Judge Over Your Shoulder”](#)

A spokesman for the Department of Justice (DoJ) today (May 6) announced the publication of the latest edition of "The Judge Over Your Shoulder – A Guide to Judicial Review for Administrators" (JOYS) at the DoJ's website (www.doj.gov.hk/eng/public/The_Judge_Over_Your_Shoulder.html).

"The fourth edition of JOYS is released today. This latest edition considers a number of major developments in the law of judicial review since the publication of the last edition in 2019. It is hoped that the publication will continue to facilitate a better understanding of the principles relating to good governance and administration," the spokesman said.

"The latest edition of JOYS is now available on the DoJ's website in English and Chinese versions. The legal sector and those who wish to understand more about judicial review, which is an integral part of the Hong Kong legal system, may wish to make reference to it," the spokesman continued.

[Government enforces “restriction-testing declaration” and compulsory testing notice in respect of specified](#)

“restricted area” in Lung Lok House, Lower Wong Tai Sin (II) Estate

The Government yesterday (May 5) exercised the power under the Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation (Cap. 599J) to make a "restriction-testing declaration" effective from 4pm yesterday, under which people (hereafter referred to as "persons subject to compulsory testing") within the specified "restricted area" in Wong Tai Sin (i.e. Lung Lok House, Lower Wong Tai Sin (II) Estate, excluding post office and non-domestic units on G/F) were required to stay in their premises and undergo compulsory testing. Persons subject to compulsory testing are required to stay in their premises until all such persons identified in the "restricted area" have undergone testing and the test results are mostly ascertained. All persons in the "restricted area" who had tested positive in the past three months, including positive cases identified either by nucleic acid tests that have been recorded by the Department of Health (DH) or by rapid antigen tests (RAT) that had been self-declared to the DH, were not required to undergo testing in this compulsory testing exercise. In addition, the Government issued a compulsory testing notice yesterday to any person other than those specified above who had been present at the building for more than two hours from April 29 to May 5, 2022, to undergo compulsory testing on or before May 7, 2022, even if they were not present in the "restricted area" at the time when the declaration took effect.

The Government finished the compulsory testing exercise at around 9am today (May 6) and is now carrying out enforcement actions in the "restricted area" to verify that all people in the "restricted area" have undergone compulsory testing. The Government will further announce the revocation time of the declaration.

Starting from around 9am today, persons in the specified "restricted area" in Wong Tai Sin who have undergone testing and are able to present SMS notifications with negative test results as proof of having undergone testing may leave the "restricted area" through the designated exit after providing personal information to a prescribed officer.

The Government set up temporary specimen collection stations in the "restricted area" yesterday and requested persons subject to compulsory testing to collect combined nasal and throat swab samples at the stations to undergo a COVID-19 virus test before 9pm yesterday. 780 people within the "restricted area" had undergone testing, among which one case tested positive and two indeterminate cases were found. The Centre for Health Protection of the DH will arrange to follow up.

Regarding the case tested positive in the specified "restricted area", the Government has provided additional food packs, disinfection products, rapid antigen test kits and masks pending follow-up arrangement.

Moreover, the Government also assigned staff to visit 404 households within the "restricted area", among which 33 households did not answer the door. The Government will take measures to follow up.

The Government reiterates that enforcement actions will be taken seriously. Any person who fails to present an SMS notification with a test result as proof of having undergone testing breaches the compulsory testing notice and may be liable to a fine of \$10,000. The person will also be issued with a compulsory testing order, requiring him/her to undergo testing within a specified time frame. Failure to comply with the compulsory testing order or the "restriction-testing declaration" is an offence and the offender may be liable to a fine of level 5 (\$50,000) and imprisonment for six months.

Merchant Shipping (Safety) (Amendment) Ordinance 2009 (Commencement) Notice 2022 gazetted

The Government published in the Gazette today (May 6) the Merchant Shipping (Safety) (Amendment) Ordinance 2009 (Commencement) Notice 2022.

The Secretary for Transport and Housing has designated July 1, 2022, as the day on which the remaining non-commenced provisions of the Merchant Shipping (Safety) (Amendment) Ordinance 2009 (the Amendment Ordinance) come into operation.

The remaining non-commenced provisions are mainly technical amendments, including the alignment of the relevant requirements with the International Convention for the Safety of Life at Sea and the International Convention on Load Lines through Direct Reference Approach, the removal or replacement of outdated references with colonial connotation, and some other minor and consequential amendments. The Amendment Ordinance was enacted by the Legislative Council on June 24, 2009.

The Commencement Notice will be tabled at the Legislative Council for negative vetting on May 11, 2022.

Gazettal of three pieces of subsidiary

legislation for commencement of new regulatory regime of accounting profession

The Government published in the Gazette today (May 6) three pieces of subsidiary legislation, namely the Financial Reporting Council (Amendment) Ordinance 2021 (Commencement) Notice (Commencement Notice), the Accounting and Financial Reporting Council (Transitional and Saving Provisions and Consequential Amendments) Regulation and the Accounting and Financial Reporting Council Ordinance (Amendment of Schedule 3B) Notice 2022 (Schedule 3B Amendment Notice), for the commencement of the new regulatory regime of the accounting profession.

The Financial Reporting Council (Amendment) Ordinance 2021 (Amendment Ordinance), which was enacted by the Legislative Council on October 22, 2021, enables the Financial Reporting Council to become a full-fledged independent regulatory body for the accounting profession under the new name of Accounting and Financial Reporting Council (AFRC) with expanded statutory functions. These functions include the issuance of practising certificates to certified public accountants; registration of accounting practice units and local Public Interest Entities auditors; and inspection, investigation and discipline of the accounting profession. The AFRC will also oversee the Hong Kong Institute of Certified Public Accountants (HKICPA)'s performance in its various statutory professional functions.

The Commencement Notice seeks to appoint October 1, 2022, as the commencement date for the Amendment Ordinance, except for the provisions relating to the establishment of the statutory Advisory Committee under the AFRC and the Secretary for Financial Services and the Treasury's power to make transitional and saving provisions consequent on the Amendment Ordinance by regulation which will commence in advance on July 4, 2022. The Regulation seeks to provide for the transitional arrangements for the handling of pending or ongoing cases upon commencement of the new regime to ensure that the cases will be dealt with by the AFRC and the HKICPA respectively in a clear and orderly manner, and the consequential amendments to relevant ordinances and subsidiary legislation. Meanwhile, the Schedule 3B Amendment Notice will set the fees levels for the issuance of practising certificates, registration of practice units and the relevant renewal as identical to the HKICPA's existing levels for collection by the AFRC from October 1, 2023.

The Secretary for Financial Services and the Treasury, Mr Christopher Hui, said, "Going forward, the AFRC and the HKICPA will strive for the effective regulation and long-term development of the accounting profession in Hong Kong. We will maintain close liaison with the profession to assist its transition to the new regime and address its development needs."

The three pieces of subsidiary legislation will be tabled before the Legislative Council at its sitting on May 11, 2022, for negative vetting.