

Evidence (Amendment) Bill 2018 to be gazetted on Friday

The Government will introduce the Evidence (Amendment) Bill 2018 into the Legislative Council (LegCo) to reform the common law rule against hearsay evidence in criminal proceedings (hearsay rule) by way of an elaborate legislative scheme.

A spokesman for the Department of Justice (DoJ) said today (June 20), "Under the proposed legislative scheme, hearsay evidence can be adduced if the parties agree, if no party opposes its admission, or if the court grants permission upon certain conditions being satisfied, including that the evidence is necessary and there is reasonable assurance that it is reliable."

The proposal is formulated on the basis of the recommendations of the Law Reform Commission of Hong Kong in its report on "Hearsay in Criminal Proceedings" published in November 2009.

The spokesman added that the proposed legislative scheme also contains other safeguards to prevent miscarriages of justice and unsafe convictions and strikes a fair balance between the fair trial right of the accused and other legitimate interests.

"The introduction of the new legislation would align the hearsay rule with the developments in other major common law jurisdictions, such as England and New Zealand. The reform will address the criticisms against the hearsay rule that it is strict and inflexible, is complicated and lacks clarity, and excludes hearsay evidence even if it is cogent and reliable," the spokesman noted.

A consultation on the proposals was conducted in 2017. The LegCo Panel on Administration of Justice and Legal Services was also briefed on the consultation exercise as well as the policy aspects of the Bill in March 2017 and February 2018 respectively. The Panel and responses received during the public consultation in 2017 were supportive of the proposed legislation.

The Bill will be gazetted on Friday (June 22) and introduced to LegCo on July 4.