

立法會
Legislative Council

LC Paper No. CB(2) 2143/00-01
(These minutes have been seen by
the Administration)

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**Bills Committee on
Immigration (Amendment) Bill 2000**

**Minutes of meeting
held on Tuesday, 24 April 2001 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Ambrose LAU Hon-chuen, JP (Chairman)
Hon Cyd HO Sau-lan
Hon Margaret NG
Hon Howard YOUNG, JP
Hon LAU Kong-wah
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Hon James TO Kun-sun
Hon Andrew WONG Wang-fat, JP

Public Officers attending : Mr Timothy TONG, JP
Deputy Secretary for Security 3

Ms Linda K P SO
Principal Assistant Secretary for Security C

Ms Winnie NG
Assistant Secretary for Security C

Mr Wesley WONG
Acting Deputy Principal Government Counsel

Dr C M LAU
Chief Chemist

Dr LAW Man-ye, Betty
Senior Chemist

Mr LAW Yiu-tung
Assistant Director of Immigration (Visa & Policies)

Mr TSOI Hon-kuen
Assistant Director of Immigration (Personal Documentation)

Clerk in attendance : Mrs Sharon TONG
Chief Assistant Secretary (2)1

Staff in attendance : Mr Arthur CHEUNG
Assistant Legal Adviser 5

Mr Raymond LAM
Senior Assistant Secretary (2)5

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I. Meeting with the Administration
(LC Paper No. CB(2) 1346/00-01(01))

At the invitation of the Chairman, Deputy Secretary for Security 3 (DS for S3) briefed members on the Administration's response to issues raised at the previous meeting and the draft Gazette notice as referred to in the proposed section 2AB(7) and 2AB(11) of the Immigration Ordinance (IO). He informed members that there was not yet a finalised genetic testing fee. The fee of about \$2,600 as quoted by the Administration at previous meetings was at the price level of 2000/01. To his knowledge, the Treasury would apply an increase of about 3% to the fee in adjusting it to the 2001/02 price level.

2. Miss Margaret NG commented that the words "必須" in the Chinese version of the draft Gazette notice might give the impression that a Certificate of Entitlement (C of E) applicant who was requested by the Director of Immigration (D of Imm) to take a genetic test must undergo the prescribed genetic test in the manner specified by D of Imm, but not any self-arranged test. Mr Howard YOUNG said that as the Gazette notice was intended for persons who accepted D of Imm's request of undergoing a prescribed genetic test, consideration might be given to amending "Where a person applying for a Certificate of Entitlement is requested by the Director of

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Immigration..." along the line of "Where a person undergoes a genetic test as a result of the Director of Immigration requesting...".

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3. DS for S3 responded that the Administration would consider revising the words "必須" in the draft Gazette notice to "須". He added that the Administration would inform the person requested to take the prescribed genetic test that the C of E application concerned would still be considered even if the person did not take the prescribed genetic test. He stressed that the Administration much hoped that a C of E applicant or claimed parent would take the prescribed genetic test in the manner specified by D of Imm when he was asked to take a test. If an applicant or claimed parent was willing to undergo a prescribed genetic test, he must take the test in the laboratory as specified in the Gazette notice. However, he could choose not to take the test in the manner as specified, in which case the C of E application would still be considered by D of Imm. However, D of Imm would ask why the test was not taken in the manner as specified and drew appropriate inference.

4. Miss Audrey EU said that if the words "必須" in the draft Gazette notice was to be revised, the word "須" in the proposed section 2AB(7)(a) should also be revised. DS for S3 responded that the Administration did not intend to make any further amendments to the wordings in the proposed section 2AB(7)(a).

5. Mr LAU Kong-wah asked whether there were examples where an applicant or his claimed parent could not undergo a prescribed test. He said that unless full justification could be provided by the applicant or his claimed parent, he did not see that there was any reason for not taking a genetic test in the manner as specified. He recalled that he had pointed out at a previous meeting of the Bills Committee that there were certain tests, such as the examination of travel documents suspected to be forged, which should be carried out by the Government Laboratory to prevent fraud.

6. Miss Margaret NG said that it was inappropriate to determine how a piece of legislation should be drafted on the basis of whether there were examples. She considered that it should be made clear that the genetic test conducted in the manner as specified by D of Imm was not the only genetic test that could be taken by an applicant or his claimed parent.

7. Miss Margaret NG pointed out that some members had suggested at the previous meeting that the genetic testing fees and the designated laboratory in the Mainland should be set out in a piece of subsidiary legislation or in a schedule to the principal legislation. Some members also considered that an express provision should be added to safeguard personal privacy. As the Administration would not move Committee Stage amendments (CSAs) to give effect to these suggestions, she considered that the relevant CSAs should be moved by the Bills Committee.

8. Ms Audrey EU commented that the proposed section 2AB(12) should be amended so that the notices as referred to in the proposed section 2AB(7)(a) and

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2AB(11) were subsidiary legislation. DS for S3 responded that the Administration did not intend to move any amendment to such effect.

9. Referring to the Chinese version of item G of the draft Gazette notice, Assistant Legal Adviser 5 (ALA5) pointed out that the words "有關人士" might be unclear. DS for S3 said that the words "有關人士" referred to the persons who took a prescribed genetic test. In this connection, ALA5 said that as no reference was made to "有關人士" in the principal legislation, the use of the words "有關人士" in the Gazette notice might be inappropriate. He said that D of Imm was empowered under the proposed section 2AB(10) to charge a fee for a prescribed genetic test. However, the Bill did not specify the person from whom the fee was to be collected. He added that the right of an applicant might be affected if his claimed parent refused to pay for the fee, thus resulting in a genetic test being not conducted.

10. DS for S3 responded that experience indicated that where a person submitted a C of E application, the claimed parent would be willing to undergo a prescribed genetic test and pay for the fee. Assistant Director of Immigration (Personal Documentation) added that a genetic test would be conducted on a voluntary basis. The Immigration Department would take the specimen only after the prescribed fee was paid. DS for S3 agreed to consider revising the words "有關人士" in the Chinese version of the draft Gazette notice. He informed members that persons who were requested to take a prescribed genetic test would be informed in writing that the specimen taking process would be conducted only after the prescribed fee was paid.

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11. Members noted that the Administration agreed that it was not necessary to add a new subsection 6A to section 2AD of IO.

II. Date of next meeting

12. Members agreed that the next meeting be scheduled for 7 May 2001 at 4:30pm to consider the draft CSAs to be moved by the Administration, the revised draft Gazette notice and whether the CSA to be proposed by Miss Margaret NG should be moved by the Bills Committee.

13. The meeting ended at 9:45 am.

Legislative Council Secretariat

10 July 2001