

立法會
Legislative Council

LC Paper No. CB(2)1696/01-02
(These minutes have been seen
by the Administration)

Ref : CB2/BC/3/00

**Bills Committee on
Drug Trafficking and Organized Crimes (Amendment) Bill 2000**

**Minutes of ninth meeting
held on Wednesday, 27 February 2002 at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members Present** : Hon James TO Kun-sun (Chairman)
Dr Hon David LI Kwok-po, GBS, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon Bernard CHAN
Hon IP Kwok-him, JP
- Members Absent** : Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Henry WU King-cheong, BBS
Hon WONG Sing-chi
- Public Officers Attending** : Ms Mimi LEE
Principal Assistant Secretary for Security (Narcotics)
- Mr Geoffrey FOX
Senior Assistant Law Draftsman
Department of Justice

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Ms Marie SIU
Senior Government Counsel
Department of Justice

Mr Kelvin LEE
Government Counsel
Department of Justice

Mr LEUNG Lap-fun
Superintendent, Narcotics Bureau
Hong Kong Police Force

Mr Stephen Barry TARRANT
Superintendent, Organized Crime and Triad Bureau
Hong Kong Police Force

Ms Diana WONG
Superintendent, Financial Investigation
Customs and Excise Department

Clerk in Attendance : Miss Flora TAI
Chief Assistant Secretary (2)2

Staff in Attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Miss Irene MAN
Senior Assistant Secretary (2)7

Action

I. Meeting with the Administration
[LC Paper No. CB(2)1136/01-02(01) and CB(2)744/00-01(01)]

The Committee deliberated on the Administration's response to members' questions raised at the meeting on 15 January 2002 on notifying an abscondee of proceedings in respect of a confiscation order [paragraphs 25 to 27 of LC Paper No. CB(2)1136/01-02(01)], and the proposals in respect of sections 4 and 5 of Schedule 1 and section 4 of Schedule 2 in the Bill [LC Paper No. CB(2)744/00-01(01)]. (Index of proceedings attached at **Annex**).

Action

Notifying an abscondee of proceedings in respect of a confiscation order

2. With regard to the Administration's proposal of adding a "deemed service" provision to the requirement of notifying an abscondee of proceedings in respect of a confiscation order, the Chairman suggested that in order to ensure fairness, the Administration should consider empowering the Court to order the mode of substituted service on the basis of individual circumstances. To facilitate members' consideration, the Administration agreed to provide -

- (a) a paper elaborating the merits and demerits of the Chairman's proposal and the proposed "deemed service" provision (including the differences in costs and time for implementing these proposals) ;
- (b) draft Committee Stage amendments in respect of the proposed "deemed service" provision; and
- (c) examples of substituted services in past civil cases.

Assessing the proceeds of drug trafficking

3. The Administration was requested to provide court precedents in which the Court had applied the assumptions in section 4(2) and (3) of Cap.405 to application of a restraint order.

Issue of a confiscation order against a deceased or absconded defendant on a civil standard of proof

4. The Administration was requested (a) to provide relevant court judgments which had been referred to when making the proposed amendments in section 5 of Schedule 1 and section 4 of Schedule 2; and (b) to consider whether it was necessary to include subsection 7(a), in addition to subsection 7(b), in the proposed new section 5(9) of Cap.405 and section 10(9) of Cap.455.

II. Any other business

5. Members agreed that the Bills Committee would hold its next two meetings on -

- (a) Monday, 4 March 2002 at 4:30pm; and
- (b) Friday, 15 March 2002 at 2:30pm.

6. There being no other business, the meeting ended at 10:10 a.m.

Action

Council Business Division 2
Legislative Council Secretariat
23 April 2002

Annex

**Proceedings of the meeting of the Bills Committee on
Drug Trafficking and Organized Crimes (Amendment) Bill 2000
on Wednesday, 27 February 2002 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000 - 0146	Chairman	Discussion from paragraph 25 onwards of LC Paper No. CB(2)1136/01-02(01)	
0147 - 0542	Admin	Briefing on the Administration proposal regarding the "deemed service" provision (paragraphs 25 to 27) in LC Paper No. CB(2)1136/01-02(01)	
0543 - 0834	Chairman	Comparison between introducing a "deemed service" provision and empowering the court to make discretion on individual cases	
0835 - 1130	Admin	- ditto -	
1131 - 1229	Mr IP Kwok-him	- ditto -	
1230 - 1235	Chairman	- ditto -	
1236 - 1240	Mr IP Kwok-him	- ditto -	
1241 - 1433	Chairman	- ditto -	
1434 - 1653	Admin	- ditto -	√ Admin to provide a paper comparing the merits and demerits between the "deemed service" provision and empowering the court to order the mode of substituted services on individual circumstances
1654 - 1717	Chairman	- ditto -	
1718 - 1805	Admin	- ditto -	
1806 - 1899	Chairman	- ditto -	
1900 - 1911	Admin	- ditto -	
1912 - 1914	Chairman	- ditto -	
1915 - 2112	Admin	- ditto -	
2113 - 2221	Chairman	- ditto -	

2222 - 2232	Mr IP Kwok-him	- ditto -	
2233 - 2337	Chairman	- ditto -	
2338 - 2406	Mr IP Kwok-him	- ditto -	
2407 - 2445	Chairman	- ditto -	
2446 - 2633	Admin	- ditto -	√ Admin to provide CSA
2634 - 2899	Chairman	Discussion on Section 4 of Schedule 1 in LC Paper No. CB(2)744/00-01(01)	
2900 - 3511	Admin	Briefing on the proposed amendments in Section 4 of Schedule 1 of the Bill	
3512 - 3531	Chairman	Application of the assumption in assessing drug trafficking proceeds in relation to the proposed amendments to Cap.405 and Cap.455	
3532 - 3614	Admin	- ditto -	
3615 - 3649	Chairman	- ditto -	
3650 - 3802	Admin	- ditto -	
3803 - 3812	Chairman	- ditto -	
3813 - 3816	Admin	- ditto -	
3817 - 3838	Chairman	- ditto -	
3839 - 3841	Admin	- ditto -	
3842 - 3908	Chairman	- ditto -	
3909 - 3919	Admin	- ditto -	
3920 - 4110	Chairman	Implications brought about by the proposed amendments in the enforcement aspect	
4111 - 4219	Admin	- ditto -	
4220 - 4222	Chairman	-ditto -	
4223 - 4424	Admin	- ditto -	
4425 - 4455	Chairman	- ditto -	
4456 - 4515	Admin	- ditto -	
4516 - 4625	Chairman	- ditto -	
4626 - 4736	Admin	- ditto -	
4737 - 4740	Chairman	- ditto -	
4741 - 4745	Admin	- ditto -	
4746 - 4757	Chairman	Application of the assumption to the restraint order	
4758 - 4829	Admin	- ditto -	

4830 - 4848	Chairman	- ditto -	
4849 - 4915	Admin	- ditto -	
4916 - 4923	Chairman	- ditto -	
4924 - 4931	Admin	- ditto -	
4932 - 4937	Chairman	- ditto -	√ Admin to provide precedent cases showing the application of the assumption to deal with the crime proceeds under the restraint order.
4938 - 4956	Admin	- ditto -	
4957 - 5002	Chairman	- ditto -	
5003 - 5005	Admin	- ditto -	
4906 - 5011	Chairman	- ditto -	
5006 - 5019	Admin	- ditto -	
5020 - 5024	Chairman	- ditto -	
5025 - 5205	Admin	Committee's position on the proposed amendments	
5206 - 5208	Chairman	- ditto -	
5209 - 5211	Admin	- ditto -	
5212 - 5246	Chairman	- ditto -	
5247 - 5313	Admin	- ditto -	
5314 - 5346	Chairman	- ditto -	
5347 - 5405	Admin	- ditto -	
5406 - 5428	Chairman	- ditto -	
5429 - 5725	Admin	Briefing on the proposed amendments in section 5 of Schedule 1 and section 4 of Schedule 2 about the conviction of offence of a deceased or absconded person with a statement tendered to the court by the prosecutor	
5726 - 5823	Chairman	Conviction of offence for an absconded person	
5824 - 5850	Admin	- ditto -	
5851 - 5899	Chairman	- ditto -	
5900 - 010004	Admin	- ditto -	
01 0005 - 01 0030	Chairman	- ditto -	

01 0031 - 01 0042	Admin	- ditto -	
01 0043 - 01 0055	Chairman	- ditto -	√ Admin to provide relevant court judgments showing the legislative intent of making the state- ment tendered by the prosecutor constitute proof for the purpose of section 3 of Cap. 405 and section 8 of Cap.455.
01 0056 - 01 0217	ALA4	Applicability of subsection 7(b) in the proposed section 5(9) of Cap.405 and section 10(9) of Cap.455	
01 0218 - 01 0332	Admin	- ditto -	
01 0333 - 01 0335	Chairman	- ditto -	
01 0336 - 01 0339	Admin	- ditto -	
01 0340 - 01 0346	Chairman	- ditto -	
01 0347 - 01 0452	ALA 4	Applicability of subsections 7(a) and 7(b) in the added subsection (9) to both deceased person and absconded person	
01 0453 - 01 0455	Chairman	- ditto -	
01 0456 - 01 0458	ALA4	- ditto -	
01 0459 - 01 0636	Admin	- ditto -	
01 0637 - 01 0723	ALA4	- ditto -.	
01 0724 - 01 0726	Admin	- ditto -	
01 0727 - 01 0734	Chairman	- ditto -	
01 0735 - 01 0801	Admin	- ditto -	
01 0802 - 01 0809	Chairman	- ditto -	
01 0810 - 01 0904	Admin	- ditto -	√ Admin undertook to consider including subsection 7(a) in the proposed subsection (9) in section 5 of Cap.405 and section 10 of Cap.455
01 0905 - 01 0908	Chairman	- ditto -	
01 0909 - 01 0932	Admin	- ditto -	
01 0933 - 01 1010	Chairman	- ditto -	

01 1011 - 01 1031	Admin	- ditto -	
01 1032 - 01 1110	Chairman	- ditto -	
01 1111 - 01 1116	Admin	- ditto -	
01 1117 - 01 1258	Chairman	- ditto -/Arrangement for the next meeting	
01 1259 - 01 1344	Mr IP Kwok-him	Arrangement for the next meeting	
01 1345 - 01 1355	Chairman	- ditto -	
01 1356 - 01 1405	Mr IP Kwok-him	- ditto -	
01 1406 - 01 1435	Chairman	- ditto -	
01 1436 - 01 1457	Mr IP Kwok-him	- ditto -	
01 1458 - 01 0646	Chairman	- ditto -	

Note : The audio records of the above proceedings are kept at the LegCo Library

Council Business Division 2
Legislative Council Secretariat
23 April 2002