

立法會
Legislative Council

LC Paper No. CB(2)1697/01-02
(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 tenth meeting
held on Monday, 4 March 2002 at 4:30 pm
in Conference Room A of the Legislative Council Building**

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

Mr Raymond LAM
Senior Assistant Secretary (2)5

Action

I. Meeting with the Administration
[LC Paper Nos. CB(2)744/00-01(01) and CB(2)857/00-01(01)]

The Committee deliberated on the proposals in respect of sections 6, 8 and 9 of Schedule 1, sections 5, 7 and 8 of Schedule 2 and section 3(b)(ii) and (iii) of Schedule 3 in the Bill [LC Paper Nos. CB(2)744/00-01(01) and CB(2)857/01-02(01)]. (index of proceedings attached at **Annex**).

Adm 2. To facilitate the work of the Committee, the Administration was requested to -

Action

Application of procedure for enforcing confiscation orders (section 6 of Schedule 1 and section 5 of Schedule 2 in the Bill)

- (a) explain the inadequacies of section 8(1)(a) of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and section 13(1)(a) of the Organised and Serious Crimes Ordinance (Cap. 455), and the justifications for the proposed amendments to these sections;
- (b) provide information about previous cases where the Court did not specify a period within which payment should be made under a confiscation order, or specifying an unduly long period, and the reasons for not specifying the period or specifying such a long period;
- (c) provide information about the periods imposed by the Court in the past for payment under confiscation orders and the reasons for the periods specified;
- (d) provide information about cases in the United Kingdom where the Court granted a period of up to three years for payment under a confiscation order, and the rationale for specifying that payment period;
- (e) explain from a legal point of view how civil proceedings against a defendant for contempt of Court for failure to make payment under a confiscation order would affect criminal proceedings against the same defendant, when the two proceedings were in parallel ;

Restraint orders and charging orders (sections 8 and 9 of Schedule 1, sections 7 and 8 of Schedule 2 and section 3(b)(ii) and (iii) of Schedule 3 in the Bill)

Punishment for non-compliance with restraint orders and charging orders

- (f) provide information about the punishment for non-compliance with restraint orders and charging orders in previous cases under the Prevention of Bribery Ordinance (Cap. 201);
- (g) consider whether the proposed penal provisions to be introduced to Cap. 405 and Cap. 455 were appropriate given the disparity between the maximum levels of fine and imprisonment specified in the proposed penal provisions and those in relevant provisions of Cap. 201;

Action

Provision of information about value of property

- (h) consider revising the proposed amendments to section 10 of Cap. 405 and section 15 of Cap. 455 to set out clearly that the requisite information referred to in the sections about the value of property was readily available information such as balance in bank account and an assessment of the value of the property was not required;
- (i) explain the provisions in the Crimes Ordinance (Cap. 200) which would apply in respect of the giving of false information under the proposed section 10 of Cap. 405 and the proposed section 15 of Cap. 455; and
- (j) consider incorporating in section 10 of Cap. 405 and section 15 of Cap. 455 the protection provided under section 25A of Cap. 405 and section 25A of Cap. 455 respectively regarding disclosure of information.

3. The Committee agreed that the next meeting would be held when the Administration's consolidated response to all the issues raised by members on the proposals in respect of provisions other than sections 25 and 25A of Cap. 405 and Cap. 455 was available. The meeting originally scheduled for 15 March 2002 would therefore be cancelled.

II. Any other business

4. There being no other business, the meeting ended at 5:40 pm.

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 Monday, 4 March 2002 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000 - 0128	Chairman	Welcoming remarks for representatives of the Administration and relevant paper	
0129 - 0353	Admin	Briefing on the proposal in respect of application of procedure for enforcing confiscation orders	
0354 - 0434	Chairman	Existing difficulties and justifications for the proposal in respect of application of procedure for enforcing confiscation orders	
0435 - 0522	Admin	- ditto -	
0523 - 0538	Chairman	- ditto -	
0539 - 0610	Admin	- ditto -	
0611 - 0657	Chairman	- ditto -	
0658 - 0711	Admin	- ditto -	
0712 - 0715	Chairman	- ditto -	
0716 - 0727	Admin	- ditto -	
0728 - 0857	Chairman	- ditto -	
0858 - 0923	Admin	- ditto -	
0924 - 0929	Chairman	- ditto -	
0930 - 0931	Admin	- ditto -	
0932 - 0936	Chairman	- ditto -	

0937 - 1021	Admin	- ditto -	√ The Administration was requested to provide information about previous cases where the Court did not specify a period within which payment should be made under a confiscation order, or specifying an unduly long period, and the reasons for not specifying the period
1022 - 1023	Chairman	- ditto -	
1024 - 1031	Admin	- ditto -	
1032 - 1037	Chairman	- ditto -	
1038 - 1039	Admin	- ditto -	
1040 - 1045	Chairman	- ditto -	
1046 - 1133	Admin	- ditto -	
1134 - 1250	Chairman	- ditto -	
1251 - 1301	Admin	- ditto -	√ The Administration was requested to explain the inadequacies of section 8(1)(a) of Cap. 405 and section 13(1)(a) of Cap. 455, and the justifications for the proposed amendments to these sections
1302 - 1622	Admin	- ditto -	
1623 - 1741	Chairman	Experience in the United Kingdom	
1742 - 1858	Mr IP Kwok-him	Information about the periods imposed by the Court in the past	√ The Administration was requested to provide information about the periods imposed by the Court in the past for payment under confiscation orders and the reasons for the periods specified

1859 - 1942	Chairman	Experience in the United Kingdom	
1943 - 2030	Admin	- ditto -	√ The Administration was requested to provide information about cases in the United Kingdom where the Court granted a period of up to three years for payment under a confiscation order, and the rationale for specifying the payment period
2031 - 2041	Chairman	Penal provisions to be introduced to Cap. 405 and Cap. 455	
2042 - 2246	Admin	Briefing on penal provisions to be introduced to Cap. 405 and Cap. 455	
2247 - 2409	Chairman	Penal provisions to be introduced to Cap. 405 and Cap. 455	
2410 - 2426	Admin	- ditto -	
2427 - 2517	Chairman/ALA4	- ditto -	
2518 - 2543	Admin	- ditto -	
2544 - 2552	Chairman	- ditto -	
2553 - 2632	Admin	- ditto -	
2633 - 2647	Chairman	- ditto -	
2648 - 2729	Admin	- ditto -	
2730 - 2818	Chairman	- ditto -	√ The Administration was requested to explain from a legal point of view how civil proceedings against a defendant for contempt of the court for failure to make payment under a confiscation order would affect criminal proceedings against the same defendant, when the two proceedings were in parallel
2819 - 2829	Admin	- ditto -	
2830 - 2915	Chairman	- ditto -	

2916 - 3037	Admin	- ditto -	
3038 - 3042	Chairman	- ditto -	
3043 - 3044	Admin	- ditto -	
3045 - 3131	Chairman	- ditto -	
3132 - 3147	Chairman	Punishment for non-compliance with restraint orders and charging orders under Cap. 201	√ The Administration was requested to provide information about the punishment for non-compliance with restraint orders and charging orders in previous cases under Cap. 201
3148 - 3226	Admin	- ditto -	
3227 - 3299	Chairman	- ditto -	
3300 - 3308	Admin	- ditto -	
3309 - 3357	Chairman	Disparity between the maximum levels of fine and imprisonment specified in the proposed penal provisions and those in relevant provisions of Cap. 201	√ The Administration was requested to consider whether the proposed penal provisions to be introduced to Cap. 405 and Cap. 455 were appropriate given the disparity between the maximum levels of fine and imprisonment specified in the proposed penal provisions and those in relevant provisions of Cap. 201
3358 - 3305	Admin	- ditto -	
3306 - 3411	Chairman	Provision of information about value of property	
3412 - 3555	ALA4	- ditto -	
3556 - 3619	Chairman	- ditto -	
3620 - 4305	Admin	Briefing on the proposal in respect of provision of information about value of property	
4306 - 4310	Chairman	Provision of information about value of property	

4311 - 4315	Admin	- ditto -	
4316 - 4331	Chairman	- ditto -	
4332 - 4529	Admin	- ditto -	
4530 - 4545	Chairman	- ditto -	
4546 - 4654	Mr Henry WU	- ditto -	
4655 - 4836	Admin	- ditto -	
4837 - 4912	Chairman	Drafting of proposed amendments to section 10 of Cap. 405 and section 15 of Cap. 455	√ The Administration was requested to consider revising the proposed amendments to section 10 of Cap. 405 and section 15 of Cap. 455 to set out clearly that the requisite information referred to in the sections about the value of property was readily available information such as balance in bank account and an assessment of the value of the property was not required
4913 - 4952	Admin	- ditto -	
4953 - 5232	Chairman	- ditto -	
5233 - 5328	Admin	- ditto -	
5329 - 5338	Chairman	- ditto -	
5339 - 5358	Chairman	Giving of false information	
5359 - 5440	Admin	- ditto -	√ The Administration was requested to explain the provisions in the Crimes Ordinance (Cap. 200) which would apply in respect of the giving of false information under the proposed section 10 of Cap. 405 and the proposed section 15 of Cap. 455
5441 - 5443	Chairman	- ditto -	
5444 - 5458	Admin	- ditto -	
5459 - 5517	Chairman	- ditto -	

5518 - 5632	ALA4	Protection provided under section 25A of Cap. 405 and section 25A of Cap. 455 regarding disclosure of information	
5633 - 5634	Chairman	- ditto -	
5635 - 5708	Admin	- ditto -	
5709 - 5739	Chairman	- ditto -	
5740 - 5753	Admin	- ditto -	
5754 - 5910	Chairman	- ditto -	√ The Administration was requested to consider incorporating in section 10 of Cap. 405 and section 15 of Cap. 455 the protection provided under section 25A of Cap. 405 and section 25A of Cap. 455 respectively regarding disclosure of information
5911 - 5929	Chairman & Admin	Pages 8 to 10 of LC Paper No. CB(2)744/01-02(01)	
5930 - 01 0002	Admin	Provision of the Administration's response and date of next meeting	
01 0003 - 01 0004	Chairman	- ditto -	
01 0005 - 01 0008	Admin	- ditto -	
01 0009 - 01 0013	Chairman	- ditto -	
01 0014 - 01 0018	Admin	- ditto -	
01 0019 - 01 0052	Chairman	- ditto -	
01 0053 - 01 0056	Admin	- ditto -	
01 0057 - 01 0112	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