

立法會
Legislative Council

LC Paper No. CB(2)1321/01-02

(These minutes have been
seen by the Administration)

Ref : CB2/BC/20/00

Bills Committee on Human Organ Transplant (Amendment) Bill 2001

**Minutes of the third meeting
held on Friday, 22 February 2002 at 10:45 am
in Conference Room B of the Legislative Council Building**

Members Present : Dr Hon LO Wing-lok (Chairman)
Hon Cyd HO Sau-lan
Hon CHAN Yuen-han, JP
Hon LAW Chi-kwong, JP
Dr Hon TANG Siu-tong, JP
Hon Audrey EU Yuet-mee, SC, JP

Members Absent : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon Michael MAK Kwok-fung

Public Officers Attending : Mr Eddie POON
Principal Assistant Secretary for Health and Welfare

Miss Eleanor JIM
Assistant Secretary for Health and Welfare

Dr Heston KWONG
Principal Medical and Health Officer
Department of Health

Dr Beatrice CHENG
Executive Manager, Hospital Authority

Miss Shandy LIU
Senior Government Counsel
Department of Justice

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Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Miss Mary SO
Senior Assistant Secretary (2) 8

I. Confirmation of minutes of meeting held on 25 January 2002
(LC Paper No. CB(2)1119/01-02)

The minutes were confirmed, subject to an amendment to the 2800-2914 timeslot of the Annex to indicate that the Administration had undertaken to explain the intent of the proposed section 5B in clause 5 of the Bill in the speech to be made by the Secretary for Health and Welfare during the resumption of the Second Reading debate on the Bill.

II. Meeting with the Administration
(LC Paper Nos. CB(2)1144/01-02(01) and (02))

2. The Bills Committee deliberated (Index of proceedings attached at the **Annex**).

3. At the request of the Bills Committee, the Administration undertook to provide a response to the following issues raised by members at the meeting -

- (a) To consider an appeal mechanism in the proposed administrative arrangement for granting exemptions to individual products for transplantation that fell within the definition of organ and yet their commercial dealings should not be prohibited;
- (b) To review the various declarations and forms required of the doctors who intended to carry out restricted organ transplants after the implementation of the Bill;
- (c) To amend "7 days" in the proposed section 7(5)(a) to "7 working days" and to consider whether the time limit could be extended to 14 working days;
- (d) To simplify the completion of cause of death under item 1(b) of Form 1 in the Schedule to the Human Organ Transplant Regulation;

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- (e) To consider whether a "legally qualified person" referred to in the proposed section 3 should be required to be so qualified in Hong Kong;
- (f) To review the proposed section 5C(5)(b) by weighing the pros and cons of requiring the same person to interview both the donor and the recipient or having two separate interviewers for the purpose;
- (g) To consider deleting the proposed section 5D(1)(a)(ii) which stipulated that a donor must have reached the age of 16 and was married and if the suggestion could not be acceded to, to provide justifications for the provision and explain whether the existence of such a provision contravened the Family Status Discrimination Ordinance; and
- (h) To confirm whether a person who had married outside Hong Kong and reached the age of 16 (or 18 if the suggestion in item 3(g) above was agreed) could donate his/her organ to his/her spouse so long as their marriage had subsisted for not less than three years.

III. Date of next meeting

4. Members agreed to hold the next meeting on 22 March 2002 at 8:30 am to continue examination of the Bill clause-by-clause.
5. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 2
Legislative Council Secretariat
19 March 2002

**Proceedings of the third meeting of the
Bills Committee on Human Organ Transplant (Amendment) Bill 2001
on Friday, 22 February 2002 at 10:45 am
in Conference Room B of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000-0355	Chairman	Welcoming remarks and minutes of meeting	
0356-0426	Ms Audrey EU	Item (b) of the Administration's response to issues raised by members on 25 January 2002 (LC Paper No. CB(2)1144/01-02(01)) concerning the creation of an additional Schedule to the Human Organ Transplant Ordinance (the Ordinance) for the setting out of materials containing human bodily parts where transplant of such would not be restricted for the purposes of sections 5 to 7 of the Ordinance and where commercial dealing would be allowed	
0427-0707	Admin	Ditto	
0708-0849	Ms Audrey EU	Ditto	
0850-1137	Admin	Ditto	
1138-1201	Ms Audrey EU	Ditto	
1202-1307	Admin	Ditto	
1308-1420	Ms Audrey EU	Ditto	
1421-1443	Admin	Ditto	
1444-1451	Ms Audrey EU	Ditto	
1452-1657	Admin	Ditto	
1658-1727	Chairman	Suggested to put in place an appeal mechanism in the system aiming at administratively granting exemptions to individual products for transplantation that fell within the definition of organ and yet their commercial dealings should not be prohibited	✓ (Admin to provide a written response)
1728-1740	Dr TANG Siu-tong	Concerned that applications for exemption of individual products for transplantation that fell within the definition of organ and yet their commercial dealings should not be prohibited might delay the transplant	
1741-1834	Admin	Response to Dr TANG's concern	

Action

Time	Speaker	Subject(s)	Action required
1835-1937	Chairman	Referred members to the submission from a doctor (LC Paper No. CB(2)1144/01-02(02))	
1938-2044	Admin	Paragraph 2 of the submission concerning whether products such as hair, plasma and placenta should fall within the definition of organ referred to in the Bill	
2045-2101	Chairman	Ditto	
2102-2122	Admin	Ditto	
2123-2128	Chairman	Ditto	
2129-2131	Miss CHAN Yuen-han	Paragraph 3 of the submission concerning the cumbersome process which doctors who intended to carry out restricted organ transplants had to go through	
2132-2138	Chairman	Ditto	
2139-2158	Miss CHAN Yuen-han	Ditto	
2159-2434	Admin	Ditto	
2435-2443	Miss CHAN Yuen-han	Ditto	
2444-2552	Admin	Ditto	
2553-2607	Chairman	Ditto	
2608-2651	Admin	Ditto	
2652-2815	Miss CHAN Yuen-han	Ditto	
2816-3045	Admin	Ditto	
3046-3122	Miss CHAN Yuen-han	Ditto	
3123-3153	Chairman	The Administration should review the various declarations and forms required of the doctors who intended to carry out restricted organ transplants after the implementation of the Bill	✓ (Admin to provide a written response)
3154-3200	Ms Audrey EU	Suggested to simplify the completion of cause of death under item 1(b) of Form 1 in the Schedule to the Human Organ Transplant Regulation	
3201-3253	Admin	Ditto	
3254-3354	Ms Audrey EU	Ditto	
3355-3404	Chairman	Ditto	
3405-3607	Admin	Ditto	
3608-3657	Ms Audrey EU	Ditto	

Action

Time	Speaker	Subject(s)	Action required
3658-3705	Chairman	Ditto	
3706-3738	Ms Audrey EU	Ditto	
3739-3810	Mr LAW Chi-kwong	Ditto	
3811-3822	Chairman	Ditto	
3823-3827	Mr LAW Chi-kwong	Ditto	
3828-3911	Admin	Ditto	
3912-3917	Ms Audrey EU	Ditto	
3918-3939	Chairman	Ditto	
3940-3955	Mr LAW Chi-kwong	Ditto	
3956-3959	Admin	Ditto	
4000-4009	Ms Audrey EU	Ditto	
4010-4037	Admin	Ditto	
4038-4054	Mr LAW Chi-kwong	Ditto	
4055-4104	Admin	Ditto	
4105-4132	Mr LAW Chi-kwong	Ditto	
4133-4146	Admin	Ditto	
4147-4152	Mr LAW Chi-kwong	Ditto	
4153-4154	Chairman	Ditto	
4155-4205	Mr LAW Chi-kwong	Ditto	
4206-4216	Admin	Ditto	
4217-4233	Chairman	The Administration should consider simplifying the completion of cause of death under item 1(b) of Form 1 in the Schedule to the Human Organ Transplant Regulation	✓ (Admin to provide a written response)
4234-4328	Miss CHAN Yuen-han	Paragraph 6 of the submission concerning the tight timeframe required for supplying the certificate on the imported organs to the Human Organ Transplant Board (the Board)	
4329-4720	Admin	Ditto	
4721-4822	Miss CHAN Yuen-han	Ditto	
4823-4826	Chairman	Ditto	
4827-4832	Admin	Ditto	
4833-4921	Miss CHAN Yuen-han	Ditto	
4922-4928	Chairman	Ditto	
4929-5031	Admin	Ditto	

Action

Time	Speaker	Subject(s)	Action required
5032-5116	Miss CHAN Yuen-han	Ditto	
5117-5125	Chairman	Suggested to amend "7 days" in the proposed section 7(5)(a) to "7 working days"	✓ (Admin to provide a written response)
5126-5134	Dr TANG Siu-tong	Also suggested to consider whether the time limit could be extended from 7 to 14 working days	✓ (Admin to provide a written response)
5135-5239	Chairman	Paragraphs 4 and 5 of the submission concerning whether the certificate on imported organ, such as skin and cornea, to the Board could contain more than one such organ for use over a specified time period	
5240-5313	Admin	Ditto	
5314-5319	Chairman	Ditto	
5320-5327	Ms Audrey EU	Ditto	
5328-5700	Chairman	Clause 1 - Short title and commencement Clause 2 - Long title amended Clause 3 - Interpretation Clause 4 - Establishment, membership and procedure of Human Organ Transplant Board	
5701-5724	SALA1	Meaning of "legally qualified persons" referred to in proposed section 3 at clause 4 of the Bill	
5725-5817	Admin	Ditto	
5818-5829	Chairman	Ditto	
5830-5834	Admin	Ditto	
5835-5844	Chairman	Ditto	
5845-5941	Admin	Ditto	
5942-5953	Chairman	Ditto	
5954-010034	Ms Audrey EU	Ditto	
010035-010044	Ms Cyd HO	Ditto	
010045-010052	Admin	Ditto	

Action

Time	Speaker	Subject(s)	Action required
010053-010058	Ms Cyd HO	Ditto	
010059-010101	Admin	Ditto	
010102-010104	Ms Cyd HO	Ditto	
010105-010121	Admin	Ditto	
010122-010125	Chairman	Ditto	
010126-010141	Admin	Ditto	
010142-010154	Chairman	Ditto	
010155-010216	Ms Cyd HO	Ditto	
010217-010223	Chairman	Ditto	
010224-010244	Admin	Ditto	
010245-010256	Ms Cyd HO	Ditto	
010257-010306	Chairman	Ditto	
010307-010404	Admin	Ditto	
010405-010532	Ms Audrey EU	Ditto	
010533-010700	Admin	Ditto	
010701-010842	Ms Audrey EU	The Administration should consider whether a "legally qualified person" referred to in proposed section 3 should be required to be so qualified in Hong Kong	✓ (Admin to provide a written response)
010843-011122	Chairman	Proposed section 5 - Restriction on organ transplants between living persons Proposed section 5A - Organ transplants between spouses or genetically related persons Proposed section 5B - Transplant involving organs removed for donors' therapy	
011123-011151	Admin	Ditto	
011152-011238	Chairman	Ditto	
011239-011315	Miss CHAN Yuen-han	Proposed section 5B(2)(a)(i)	
011316-011329	Chairman	Ditto	

Action

Time	Speaker	Subject(s)	Action required
011330-011451	Admin	Referred to item (e) of the Administration's response to issues raised by members on 25 January 2002 (LC Paper No. CB(2)1144/01-02(01)) which stated that the Administration would introduce Committee Stage amendments to the effect that the doctor, who was to transplant the organ previously removed for therapeutic purpose, should have checked all the relevant documents in connection with the organ therapeutically removed, which in effect included the documents prepared by the doctor who previously removed the organ for the therapeutic purpose of the patient	
011452-011619	Chairman	Proposed section 5C - Organ transplant with prior approval of the Board Meaning of "suitably qualified" interviewer referred to in proposed section 5C(5)(a)	
011620-011702	Admin	Ditto	
011703-011713	Chairman	Ditto	
011714-011801	Admin	Ditto	
011802-011849	Ms Cyd HO	Proposed section 5C(5)(b) stipulating that the interview of donor and recipient could be conducted by either the same or two different interviewers	
011850-012023	Admin	Ditto	
012024-012026	Chairman	Ditto	
012027-012127	Admin	Ditto	
012128-012212	Ms Cyd HO	Ditto	
012213-012304	Mr LAW Chi-kwong	Ditto	
012305-012332	Chairman	Ditto	
012333-012346	Ms Cyd HO	Ditto	
012347-012354	Chairman	Ditto	
012355-012629	Admin	Ditto	
012630-012658	Ms Cyd HO	Ditto	
012659-012700	Chairman	Ditto	

Action

Time	Speaker	Subject(s)	Action required
012701-012808	SALA1	Ditto	
012809-012816	Ms Cyd HO	Ditto	
012817-012827	Mr LAW Chi-kwong	Ditto	
012828-012832	Ms Cyd HO	Ditto	
012833-012836	Chairman	The Administration should review the proposed section 5C(5)(b) by weighing the pros and cons of requiring the same person to interview both the donor and the recipient or having two separate interviewers for the purpose	
012837-012943	Admin	The Administration agreed to review proposed section 5C(5)(b)	✓ (Admin to provide a written response)
012944-013020	Chairman	Proposed section 5D - General requirements to be satisfied for the purposes of sections 5A and 5C	
013021-013101	Miss CHAN Yuen-han	Drafting of proposed section 5D(1)(b) and (c)	
013102-013304	Admin	Ditto	
013305-013349	Miss CHAN Yuen-han	Ditto	
013350-013441	SALA1	Ditto	
013442-013454	Chairman	Ditto	
013455-013539	Miss CHAN Yuen-han	Ditto	
013540-013627	SALA1	Ditto	
013628-013637	Miss CHAN Yuen-han	Ditto	
013638-013649	Admin	Ditto	
013650-013714	Miss CHAN Yuen-han	Ditto	
013715-013810	SALA1	Ditto	
013811-013815	Chairman	Ditto	

Action

Time	Speaker	Subject(s)	Action required
013816-013924	Ms Cyd HO	Proposed section 5D(1)(a)(ii) stipulating that a person could be a donor if he/she had reached the age of 16 and was married	
013925-013954	Mr LAW Chi-kwong	Ditto	
013955-014024	Admin	Ditto	
014025-014058	Mr LAW Chi-kwong	Ditto	
014059-014102	Ms Cyd HO	Ditto	
014103-014111	Chairman	Ditto	
014112-014138	Admin	Ditto	
014139-014234	Mr LAW Chi-kwong	Ditto	
014235-014242	Chairman	Ditto	
014243-014336	SALA1	Ditto	
014337-014426	Mr LAW Chi-kwong	Ditto	
014427-014459	SALA1	Ditto	
014500-014515	Chairman	Ditto	
014516-014534	Ms Cyd HO	Ditto	
014535-014606	Chairman	The Administration should - (a) consider deleting the proposed section 5D(1)(a)(ii) which stipulated that a donor must have reached the age of 16 and was married and if the suggestion could not be acceded to, to provide justifications for the provision and explain whether the existence of such a provision contravened the Family Status Discrimination Ordinance; and (b) confirm whether a person who had married outside Hong Kong and reached the age of 16 (or 18 if the suggestion in (a) was agreed) could donate his/her organ to his/her spouse so long as their marriage had subsisted for not less than three years	✓ (Admin to provide a written response)
014607-014942	Chairman	Date of next meeting	

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

Council Business Division 2
Legislative Council Secretariat
 19 March 2002