

立法會
Legislative Council

LC Paper No. CB(2)840/01-02
(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 first meeting
held on Friday, 14 December 2001 at 4:30 pm
in Conference Room A of the Legislative Council Building**

- Members Present** : Dr Hon LO Wing-lok (Chairman)
Hon Cyd HO Sau-lan
Hon CHAN Yuen-han, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon TANG Siu-tong, JP
Hon Michael MAK Kwok-fung
Hon Audrey EU Yuet-mee, SC, JP
- Member Absent** : Hon LAW Chi-kwong, JP
- Public Officers Attending** : Mr Thomas YIU, JP
Deputy Secretary for Health and Welfare
- 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
- 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

Miss Mary SO
Senior Assistant Secretary (2) 8

I. Election of chairman

Dr LO Wing-lok was elected chairman of the Bills Committee.

II. Meeting with the Administration

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

3. The Administration undertook to provide a response to the following queries, questions and views raised by members at the meeting -

- (a) Types of payments falling within the meaning of "administrative cost incidental to the removal, transportation or preservation of the organ to be supplied" referred to in clause 3(b)(ii) of the Bill, and the person(s)/organisations to whom/which the payment(s) would be made;
- (b) Number of cases handled by the Human Organ Transplant Board (the Board) each year since its formation;
- (c) Number and types of organs imported into Hong Kong for transplant purposes each year for the past two years;
- (d) DNA testing should be used as a means of establishing genetic relationship for transplant of an organ from a live donor, in the event that the means of establishing the same as stipulated in section 2 of the Human Organ Transplant Regulation should fail;
- (e) Donor should be required to make a declaration that there was no commercial dealing in donating his organ for transplanting into another person;

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- (f) Amendment to the proposed Schedule setting out the human bodily parts in relation to the definition of "organ" under the Human Organ Transplant Ordinance (the Ordinance) should be subject to positive vetting by the Legislative Council;
- (g) Two persons not from the medical sector should be retained as members of the Board;
- (h) Registered medical practitioners who were to transplant organs previously removed for therapeutic purposes should not be required to make a declaration to his best knowledge that he was not aware of any payment prohibited by the Ordinance had been or was intended to be made, and that the organs were removed for the therapy of the donors, having regard to the fact that the registered medical practitioners concerned did not have direct knowledge of the matter; and
- (i) Legal liability of the registered medical practitioner for performing an organ transplant on a patient without first obtaining the latter's consent because of his illness or impaired state of consciousness or his being a minor, a mentally incapacitated person; whether relatives of a patient who could not give consent might give consent on behalf of the patient; and what would happen if the relatives had no consensus on whether to give consent.

III. Date of next meeting

- 4. Members agreed to hold the next meeting on 25 January 2002 at 10:45 am to meet deputations and to continue discussion on the Bill.
- 5. There being no other business, the meeting ended at 5:55 pm.

Council Business Division 2
Legislative Council Secretariat
8 January 2002

**Proceedings of the first meeting of the
Bills Committee on Human Organ Transplant (Amendment) Bill 2001
on Friday, 14 December 2001 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000-0010	Ms Cyd HO	Election of chairman	
0011-0012	Mrs Sophie LEUNG	Ditto	
0012-0014	Dr TANG Siu-tong	Ditto	
0014-0015	Dr LO Wing-lok	Ditto	
0016-0023	Ms Cyd HO	Ditto	
0024-0627	-----	Suspension of meeting	
0628-0812	Chairman	Welcoming remarks	
0813-1832	Admin	Introduction of the Bill	
1833-1838	Chairman	Ditto	
1839-1902	Miss CHAN Yuen-han	Types of payments falling within the meaning of "administrative cost incidental to the removal, transportation or preservation of the organ to be supplied" referred to in clause 3(b)(ii) of the Bill	
1903-1944	Admin	Ditto	
1945-1958	Miss CHAN Yuen-han	Ditto	
1959-2023	Admin	Ditto	
2024-2042	Miss CHAN Yuen-han	Ditto	
2043-2102	Admin	Ditto	
2103-2112	Chairman	Ditto	
2113-2119	Admin	Ditto	
2120-2158	Miss CHAN Yuen-han	Ditto	
2159-2201	Chairman	Ditto	
2202-2245	Admin	Ditto	
2246-2253	Miss CHAN Yuen-han	Ditto	
2254-2256	Chairman	Ditto	

Action

Time	Speaker	Subject(s)	Action required
2257-2552	Ms Audrey EU	<ul style="list-style-type: none"> - Person(s)/organisations) to whom/to which "the administrative cost incidental to the removal, transportation or preservation of the organ to be supplied" referred to in clause 3(b)(ii) of the Bill would be made; - Number of cases handled by the Human Organ Transplant Board (the Board) each year since its formation; - Numbers and types of organs imported into Hong Kong for transplant purposes each year for the past two years; and - Whether the medical sector and other concerned parties had been consulted on the Bill 	
2553-2602	Chairman	Ditto	
2603-2645	Admin	Types of payments falling within the meaning of "administrative cost incidental to the removal, transportation or preservation of the organ to be supplied" referred to in clause 3(b)(ii) of the Bill, and to whom/which the payments would be made	
2646-2711	Ms Audrey EU	Ditto	
2712-2725	Admin	Ditto	
2726-2737	Chairman	Ditto	
2738-2747	Ms Audrey EU	Ditto	
2748-2822	Admin	Ditto	
2823-2826	Chairman	Ditto	<p style="text-align: center;">✓</p> <p>(Admin to provide a written response)</p>
2827-2929	Admin	Numbers and types of organ transplant operations performed in Hong Kong and the number of cases handled by the Board each year since its formation	<p style="text-align: center;">✓</p> <p>(Admin to provide a written response)</p>

Action

Time	Speaker	Subject(s)	Action required
2930-3014	Admin	Numbers and types of organs imported into Hong Kong for transplant purposes each year for the past two years	✓ (Admin to provide a written response)
3015-3027	Admin	Consultation on the Bill	
3028-3053	Chairman	Ditto	
3054-3318	Mr Michael MAK	- DNA testing should be used as a means of establishing genetic relationship for transplant of an organ from a live donor, in the event that the means of establishing the same as stipulated in section 2 of the Human Organ Transplant Regulation should fail; and - Donor should be required to make a declaration that there was no commercial dealing in donating his organ for transplanting into another person	
3319-3546	Admin	DNA testing should be used as a means of establishing genetic relationship for transplant of an organ from a live donor, in the event that the means of establishing the same as stipulated in section 2 of the Human Organ Transplant Regulation should fail	
3547-3601	Mr Michael MAK	Ditto	
3602-3736	Admin	Ditto	
3737-3818	Mr Michael MAK	Ditto	
3819-3852	Admin	Ditto	✓ (Admin to provide a written response)
3853-3909	Mr Michael MAK	Donor should be required to make a declaration that there was no commercial dealing in donating his organ for transplanting into another person	
3910-3950	Admin	Ditto	
3951-4001	Mr Michael MAK	Ditto	
Time	Speaker	Subject(s)	Action required
4002-4025	Chairman	Ditto	

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4026-4130	Admin	Ditto	
4131-4148	Chairman	Ditto	
4149-4234	Admin	Ditto	
4235-4301	Mr Michael MAK	Ditto	
4302-4309	Chairman	Ditto	✓ (Admin to provide a written response)
4310-4458	Ms Cyd HO	- Whether the medical sector and other concerned had been consulted on the definition of "organ" stipulated in the Bill; and - Amendment to the proposed Schedule setting out the human bodily parts in relation to the definition of "organ" under the Human Organ Transplant Ordinance (the Ordinance) should be subject to positive vetting by the Legislative Council (LegCo)	
4459-4614	Admin	Ditto	
4615-4647	Ms Cyd HO	Ditto	
4648-4811	Admin	Ditto	
4812-4816	Chairman	Ditto	
4817-4859	Admin	Ditto	
4900-5020	Ms Cyd HO	Ditto	
5021-5026	Admin	Ditto	
5027-5115	Chairman	Admin requested to give a response on whether it would agree to the suggestion that the proposed Schedule should be subject to positive vetting by LegCo	✓
5116-5246	Miss CHAN Yuen-han	Two persons not from the medical sector should be retained as members of the Board	
5247-5344	Admin	Ditto	
5345-5503	Miss CHAN Yuen-han	Deletion of section 3(4) of the Ordinance	
5504-5517	Admin	Ditto	
5518-5533	Miss CHAN Yuen-han	Ditto	
Time	Speaker	Subject(s)	Action required
5534-5556	Admin	Ditto	
5557-5609	Miss CHAN Yuen-han	Two person not from the medical sector should be retained as members of the Board	

Action

5610-5619	Chairman	Ditto	
5620-5622	Admin	Ditto	
5623-5640	Miss CHAN Yuen-han	Ditto	
5641-5646	Chairman	Ditto	✓ (Admin to give a written response)
5647-5820	Ms Audrey EU	Registered medical practitioners who were to transplant organs previously removed for therapeutic purposes should not be required to make a declaration that he was not aware of any payment prohibited by the Ordinance had been or was intended to be made, and that the organs were removed for the therapy of the donor, having regard to the fact that the registered medical practitioners concerned did not have direct knowledge of the matter	
5821-5937	Admin	Ditto	
5938-5949	Chairman	Ditto	
5950-010051	Ms Audrey EU	Ditto	
010052-010112	Chairman	Ditto	✓ (Admin to provide a written response)
010113-010156	Dr TANG Siu-tong	Whether hair fell within the definition of human bodily part; and if so, whether transplants of it should not be restricted for the purposes of sections 5 to 7 of the Ordinance, as in the case of blood and bone marrow	
010157-010215	Admin	Ditto	
010216-010233	Dr TANG Siu-tong	Ditto	
010234-010351	Admin	Ditto	

Action

Time	Speaker	Subject(s)	Action required
010352-010300	Chairman	Ditto	
010301-010310	Dr TANG Siu-tong	Ditto	
010311-010322	Chairman	Ditto	
010323-010400	Miss CHAN Yuen-han	Legal liability of the registered medical practitioners for performing an organ transplant on a patient without first obtaining the latter's consent because of his illness or impaired statement of consciousness or his being a minor, a mentally incapacitated person	
010401-010455	Admin	Ditto	
010456-010558	Miss CHAN Yuen-han	Ditto	
010559-010611	Admin	Ditto	
010612-010616	Chairman	Ditto	
010617-010713	Ms Cyd HO	Ditto	
010714-010912	Admin	Ditto	
010913-010916	Chairman	Ditto	
010917-011101	SALA	Ditto	
011102-011107	Ms Audrey EU	Ditto	
011108-011117	Chairman	Ditto	
011118-011157	Ms Cyd HO	Ditto	
011158-011213	SALA	Ditto	
011214-011220	Chairman	Ditto	
011221-011241	SALA	Ditto	
011242-011319	Admin	Ditto	
011320-011437	SALA	Ditto	
011438-011441	Chairman	Ditto	
011442-011451	SALA	Ditto	
011452-011455	Chairman	Ditto	
011456-011543	Dr TANG Siu-tong	Ditto	
011544-011616	Admin	Ditto	
011617-011641	Dr TANG Siu-tong	Ditto	
011642-011655	Chairman	Ditto	

Action

Time	Speaker	Subject(s)	Action required
011656-011720	Ms Audrey EU	Admin requested to provide a written response on the legal liability of the registered medical practitioners for performing an organ transplant on a patient without first obtaining the latter's consent because of his illness or impaired statement of consciousness or his being a minor, a mentally incapacitated person; whether relatives of a patient who could not give consent might give consent on behalf of the patient; and what would happen if the relatives had no consensus to give consent	✓
011721-011739	Chairman	Way forward and date of next meeting	
011740-011826	Ms Cyd HO	Ditto	
011827-011847	Miss CHAN Yuen-han	Ditto	
011848-011854	Chairman	Ditto	
011855-011907	Dr TANG Siu-tong	Ditto	
011908-011930	Mr Michael MAK	Ditto	
011931-011941	Miss CHAN Yuen-han	Ditto	
011942-012208	Chairman	Ditto	
012209-012211	Ms Audrey EU	Ditto	
012212-012214	Chairman	Ditto	
012215-012220	Admin	Ditto	
012221-012226	Chairman	Ditto	

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

Council Business Division 2
Legislative Council Secretariat
 8 January 2002