

立法會
Legislative Council

LC Paper No. CB(2)1591/01-02
(These minutes have been
seen by the Administration)

Ref : CB2/BC/24/00

Legislative Council
Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2001

Minutes of the third meeting
held on Thursday, 28 March 2002 at 10:45 am
in Conference Room A of the Legislative Council Building

- Members Present** : Hon Margaret NG (Chairman)
Hon Cyd HO Sau-lan
Hon James TO Kun-sun
Hon Jasper TSANG Yok-sing, JP
Hon Mr Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members Absent** : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
- Public Officers Attending** : Mr Michael SCOTT
Senior Assistant Solicitor General
- Ms Monica LAW
Acting Senior Assistant Law Draftsman
- Mr Gavin SHIU
Senior Government Counsel
Prosecutions Division
- Miss Doris LO
Acting Senior Government Counsel
Legal Policy Division

Mr Michael LAM
Senior Government Counsel
Law Drafting Division

Clerk in Attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in Attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Mr Paul WOO
Senior Assistant Secretary (2)3

I. Confirmation of minutes of meeting
(LC Paper No. CB(2)1451/01-02)

The minutes of the meeting held on 8 March 2002 were confirmed.

II. Meeting with the Administration

2. The Committee deliberated (index of proceedings attached at **Annex**).

Part XIV of the Bill (Amendments to Legal Practitioners Ordinance
(The Bill, marked-up copy of the Bill, LC Paper Nos. CB(2)1352/01-02(04),
1453/01-02(01) and 1455/01-02(01))

3. Members noted that the Secretariat had invited comments on the Bill from interested parties through the LegCo's website. The Chairman said that she would also consult members of the legal profession on the Bill in her capacity as the LegCo Member representing the Legal Functional Constituency.

4. The Committee examined Part XIV of Bill clause-by-clause.

5. The Committee requested the Administration -

Clause 105

- (a) to clarify the difference in role between "the Society" and "the Council" in proposed section 6(5) of the Legal Practitioners Ordinance;

Clause 108

- (b) to consider whether the element of "dishonesty" should be included in proposed section 9A(1B);
- (c) to improve the drafting of proposed section 9A(1B)(a) with a view to removing the ambiguity of the word "deliberate";

Clause 109

- (d) to clarify the scope of the term "any person affected" in proposed section 9AB(6);

Clause 126

- (e) to propose a draft Committee Stage amendment -
 - (i) to amend the new section 40A(4) of the Ordinance to replace the term "Chief Justice" with "Chief Judge";
 - (ii) to amend the new section 40E(6) of the Ordinance along the line of clause 105 so that the power of the Chief Justice under the subsection would be transferred to the Society of Notaries; and
- (f) to explain why section 3 of the Legal Practitioners (Amendment) Ordinance (27 of 1998) had yet to come into operation.

6. The Administration was requested to consult the Law Society on items (a) to (d) and the Society of Notaries on item (e) above in preparing its reply for the consideration of the Committee.

Part V of the Bill (Marital Rape and Related Sexual Offences)

7. The Chairman pointed out that a major view expressed in previous discussions of the Panel on Administration of Justice and Legal Services on the issue of marital rape was that the most urgent task of a legislative amendment exercise was to remove the existing uncertainty in the law so as to make it clear that marital rape was an offence. She considered that rather than seeking to deal with other related sexual offences at the same time as proposed in the Bill, hence making the amendment exercise far more complicated, a more simplistic approach to deal only with marital rape would suffice at this stage. In her opinion, the problems associated with other related sexual offences could be addressed at a later stage. Members generally shared her view.

8. Ms Emily LAU opined that should the Administration agree to deal with marital rape first, it should follow up with a review of other related sexual offences in due course. She added that the protection of victims of sexual offences should be the paramount concern.

9. Senior Government Counsel (Prosecutions Division) said that the existing sexual offences provisions in the Crimes Ordinance required modernization and a full review. He considered that there might be merits in the Chairman's proposal to proceed with the law amendment exercise by phases.

10. The Administration was requested to advise on its position on the Chairman's proposal to adopt a "minimalist" approach to deal only with the issue of marital rape at the present stage, leaving the amendments to other related sexual offences provisions to be considered as appropriate at a later stage, and explain the implications of this proposal, if any.

III. Date of next meeting

11. The next meeting would be held on 4 April 2002 at 10:45 am.

12. There being no other business, the meeting ended at 12:05 pm.

Council Business Division 2
Legislative Council Secretariat
15 April 2002

**Proceedings of the third meeting of the Bills Committee on
Statute Law (Miscellaneous Provisions) Bill 2001 on
Thursday, 28 March 2002 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000001-000244	Chairman	Confirmation of minutes (LC Paper No. CB(2)1451/01-02/ Papers prepared by the Law Society and the Administration (LC Paper Nos. CB(2)1453/01-02 and 1455/01-02 respectively)	
000245-000307	Ms Audrey EU/ Chairman	Part XIV of the Bill (Amendments to Legal Practitioners Ordinance) - Clause 108	
000308-000328	Chairman	-ditto-	
000329-000432	Ms Audrey EU	-ditto-	
000433-000537	Chairman	-ditto-	
000538-000625	Ms Audrey EU	-ditto-	
000626-000659	Chairman	-ditto-	
000700-000731	Ms Audrey EU	-ditto-	
000732-001253	Chairman	Clauses 108 and 109	Adm (paras. 5(b) and (c))
001254-001259	Adm	-ditto-	
001300-001344	Chairman	-ditto-	
001345-001351	Adm	-ditto-	
001352-001411	Chairman	-ditto-	
001412-001438	Adm	-ditto-	
001439-001734	Chairman	-ditto-	
001735-001815	Adm	-ditto-	
001816-001842	Chairman	-ditto-	
001843-001858	Adm	-ditto-	
001859-001908	Chairman	-ditto-	
001909-001922	Adm	-ditto-	
001923-002034	Chairman	-ditto-	
002035-002115	Adm	-ditto-	
002116-002350	Ms Audrey EU	-ditto-	

002351-002359	Chairman	-ditto-	
002400-002532	ALA	-ditto-	
002533-002639	Chairman	-ditto-	
002640-002649	Adm	-ditto-	
002650-002701	Chairman	-ditto-	
002702-002708	Ms Audrey EU	Clause 105	
002709-002725	Chairman	-ditto-	
002726-002831	Ms Audrey EU	Item (f) in Law Society's letter dated 25 March 2002 concerning clause 105 (LC Paper No. CB(2)1453/01-02(01))	
002832-002855	Chairman	-ditto-	
002856-002903	Ms Audrey EU	-ditto-	
002904-003010	Chairman	Consultation on Part XIV of the Bill	
003011-003055	Ms Emily LAU	-ditto-	
003056-003126	Chairman	-ditto-	
003127-003137	ALA	Rules made by Law Society	
003138-003154	Chairman	-ditto-	
003155-003202	Ms Audrey EU	-ditto-	
003203-003518	Chairman	Clause-by-clause examination of Part XIV of the Bill	
003519-003558	Ms Audrey EU	-ditto-	
003559-003605	Chairman	-ditto-	
003606-003620	Adm	-ditto-	
003621-003625	Chairman	-ditto-	
003626-003655	Ms Audrey EU	-ditto-	
003656-004054	Chairman	-ditto-	Adm (para. 5(a))
004055-004102	Ms Audrey EU	-ditto-	
004103-004123	Chairman	-ditto-	
004124-004134	Ms Audrey EU	-ditto-	
004135-004141	Chairman	-ditto-	
004142-004150	Adm	-ditto-	Adm (para. 5(d))

004151-004310	Chairman	-ditto-	
004311-004316	Ms Audrey EU	-ditto-	
004317-004527	Chairman	-ditto-	
004528-004543	Ms Audrey EU	-ditto-	
004544-004611	ALA	-ditto-	
004612-004619	ALA/Chairman	-ditto-	
004620-004639	Chairman	-ditto-	
004640-004644	ALA	-ditto-	
004645-004855	Chairman	-ditto-	
004856-004905	ALA	-ditto-	
004906-004914	Chairman	-ditto-	
004915-004927	ALA	-ditto-	
004928-004941	Chairman	-ditto-	
004942-004956	Ms Audrey EU	-ditto-	
004957-005004	Chairman/ Ms Audrey EU	-ditto-	
005005-005027	Chairman	-ditto-	
005028-005036	ALA	Clause 126	
005037-005109	Chairman	-ditto-	
005110-005129	ALA	-ditto-	
005130-005135	Chairman	-ditto-	
005136-005149	Adm	-ditto-	
005150-005227	ALA	-ditto-	
005228-005312	Chairman	-ditto-	Adm (para. 5(e))
005313-005341	Chairman/ Ms Emily LAU	-ditto-	
005342-005450	Chairman	-ditto-	
005451-005515	Ms Emily LAU	Section 3 of Legal Practitioners (Amendment) Ordinance (27 of 1998)	
005516-005522	Chairman	-ditto-	
005523-005531	Adm	-ditto-	
005532-010209	Chairman	-ditto-	

010210-010214	Adm	-ditto-	Adm (para. 5(f))
010215-010401	Chairman	Part V of the Bill (Marital rape and related sexual offences) / Proposal to adopt a "minimalist" approach to deal with marital rape only, leaving the proposed amendments to other sexual offences provisions to be considered at a later stage.	
010402-010452	Ms Emily LAU	-ditto-	
010453-010641	Chairman	-ditto-	
010642-010711	Ms Emily LAU	-ditto-	
010712-010807	Chairman	-ditto-	
010808-010815	Ms Emily LAU	-ditto-	
010816-010850	Adm	-ditto-	
010851-010911	Chairman	-ditto-	
010912-010919	Ms Emily LAU	-ditto-	
010920-011211	Adm	-ditto-	
011212-011219	Chairman	-ditto-	
011220-011314	Ms Emily LAU	-ditto-	Adm (para. 10)
011315-011452	Chairman	-ditto-	
011453-011458	Ms Emily LAU	-ditto-	
011459-011521	Chairman	-ditto-	
011522-011533	Chairman/ Ms Emily LAU	-ditto-	
011534-011538	Adm	-ditto-	
011539-011620	Chairman	Next meeting to consider Part VII of the Bill	
011621-011634	Adm	-ditto-	
011635-011637	Chairman	-ditto-	

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

Council Business Division 2
Legislative Council Secretariat
 15 April 2002