

立法會
Legislative Council

LC Paper No. CB(2)2299/01-02
(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 sixth meeting
held on Thursday, 2 May 2002 at 8:30 am
in the Chamber of the Legislative Council Building

Members Present : Hon Margaret NG (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon Jasper TSANG Yok-sing, JP
Hon Audrey EU Yuet-mee, SC, JP

Members Absent : Hon Cyd HO Sau-lan
Hon James TO Kun-sun
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP

Public Officers Attending : Mr Michael SCOTT
Senior Assistant Solicitor General

Miss Monica LAW
Acting Senior Assistant Law Draftsman

Miss Doris LO
Acting Senior Government Counsel
Legal Policy Division

Clerk in Attendance : Mr Paul WOO
Chief Assistant Secretary (2)6

Staff in Attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Miss Lolita SHEK
Senior Assistant Secretary (2)7

I. Meeting with the Administration

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

Part VII of the Bill (Power of Court to Order Repayment of Deposit)

(The Bill; LC Paper Nos. CB(2)1753/01-02(02); 1755/01-02(01) and 1554/01-02(01))

2. Ms Audrey EU tabled her letter dated 2 May 2002 to the Chairman of the Bills Committee (LC Paper No. CB(2)1797/01-02(01)) which stated her views against the proposed amendment to section 12 of the Conveyancing and Property Ordinance to provide the court with a discretion to order a return of deposit to the purchaser. A copy of the letter was provided to the Administration for consideration and response at the next meeting.

3. The Administration introduced its written response (LC Paper No. CB(2)1753/01-02(02)) to the submissions from the Hong Kong Bar Association and the Hong Kong Consumer Council on Part VII of the Bill (LC Paper No. CB(2)1554/01-02(01) and 1755/01-02(01) respectively). The Bar Association was of the view that the proposed amendment was an unnecessary inroad into the principle of freedom of contract and would introduce unnecessary uncertainty to contractual rights. The Consumer Council maintained its support for giving the court the discretion to order a return of deposit in circumstances where it would cause injustice for the purchaser to lose the deposit, subject to the court's discretion being qualified rather than unfettered.

4. Members decided that issues relating to Part VII of the Bill would be further discussed at the next meeting.

To continue with clause-by-clause examination of the Bill (starting from Part VIII)

(Marked-up copy of the Bill)

5. The Committee completed clause-by-clause examination of the Bill, apart from Parts V and VII of the Bill.

6. The Administration was requested -

Part XI of the Bill (Miscellaneous Amendments to Ordinances Relating to Tertiary Institutions)

- (a) to advise whether the tertiary institutions concerned had been consulted on the proposed transfer of appointment authority from the Chief Executive to the relevant Council, and the result of the consultation;

Clause 53

- (b) to consider amending "from among its members" in section 8(1)(d) of the Hong Kong Institute of Education Ordinance in light of the proposed revised amendment to section 8(1)(e);
- (c) regarding section 8(1)(f) of the Hong Kong Institute of Education Ordinance, to explain why "President" should be replaced with "Chief Executive" rather than "Chancellor", and what other Ordinances relating to tertiary institutions had adopted the same approach;

Clause 60

- (d) to advise whether "public officers" in section 10(1)(d) and the proposed section 10(3) of the Hong Kong Polytechnic University Ordinance would include officers politically appointed under the proposed accountability system for principal officials;

Part XV of the Bill (Miscellaneous Amendments)

Clause 130

- (e) to advise why the references to "Crown", "Her Majesty's Government" and "Her Majesty's Forces" in section 3 of the Firearms and Ammunition Ordinance were retained;
- (f) to explain why clause 130 should be deemed to have come into operation on 26 May 2000;

Clause 131

- (g) to explain why Order 93, rule 14 of the Rules of the High Court should be repealed;

- (h) to explain why in the definition of "Secretary" in section 2 of the Land Drainage Ordinance, "Secretary for Planning and Lands" should be replaced with "Secretary for Works", and to clarify why a different amendment was proposed under the draft Resolution to effect the transfer of statutory functions to the principal officials under the proposed accountability system;
- (i) to advise whether amendments to section 21(3) of the Eastern Harbour Crossing Ordinance and section 16(3) of the Tate's Cairn Tunnel Ordinance would be revised if the proposed accountability system for principal officials was implemented.

II. Date of next meeting

- 7. The next meeting would be held on 9 May 2002 at 8:30 am.
- 8. There being no other business, the meeting ended at 10:25 am.

Council Business Division 2
Legislative Council Secretariat
14 June 2002

**Proceedings of the sixth meeting of the Bills Committee on
Statute Law (Miscellaneous Provisions) Bill 2001
Thursday, 2 May 2002 at 8:30 am.
in Chamber of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000255	Chairman	Submissions from the Hong Kong Bar Association and Hong Kong Consumer Council on Part VII of the Bill (LC Paper Nos. CB(2)1554/01-02(01) and CB(2)1755/01-02(01)), and Adm's response to the submissions and issues raised at previous meeting relating to the same part of the Bill (LC Paper No. CB(2)1753/01-02(02))	
000256 - 000836	Administration	Ditto	
000837 - 000845	Chairman	Ditto	
000846 - 001222	Ms Audrey EU	Her letter to the Committee stating the grounds for her objection to the proposed legislative amendment	
001223 - 001409	Chairman	Clause 19 (proposed section 12(1A) of the Conveyancing and Property Ordinance (Cap. 219))	
001410 - 001536	Administration	Ditto	
001537 - 001820	Chairman	Clause by clause examination of Part VIII of the Bill (Amendment of Administrative Appeals Board Ordinance) Effect of the amendment proposed in Clause 20 on narrowing down the right of appeal	
001821 - 002003	Administration	Ditto	
002004 - 002021	Chairman	Ditto	
002022 - 002036	Administration	Ditto	
002037 - 002129	Chairman	Ditto	
002130 - 002155	Administration	Ditto	
002156 - 002455	Chairman	Clause 21	
002456 - 002500	Administration	Ditto	
002501 - 002532	Chairman	Ditto	
002533 - 002551	ALA	Ditto	
002552 - 002559	Chairman	Ditto	
002600 - 002611	ALA	Ditto	
002612 - 002626	Chairman	Ditto	
002627 - 002701	ALA	Ditto	

002702 - 002744	Chairman	Ditto	
002745 - 002808	ALA	Ditto	
002809 - 002814	Chairman	Ditto	
002815 - 002840	Administration	Ditto	
002841 - 002850	Chairman	Ditto	
002851 - 002905	ALA	Ditto	
002906 - 002913	Chairman	Ditto	
002914 - 002918	Administration	Ditto	
002919 - 002953	Chairman	Ditto	
002954 - 003014	ALA	Ditto	
003015 - 003055	Chairman	Ditto	
003056 - 003058	Administration	Ditto	
003059 - 003412	Chairman	Clause by clause examination of Part IX of the Bill (Change of name and widening the powers of the Hong Kong Examinations Authority)	
003413 - 003424	Administration	Ditto	
003425 - 003457	Chairman	Ditto	
003458 - 003524	ALA	Ditto	
003525 - 003529	Chairman	Ditto	
003530 - 003539	ALA	Ditto	
003540 - 004028	Chairman	Clause by clause examination of Part XI of the Bill (Miscellaneous amendments to Ordinances relating to tertiary institutions) Clause 53	
004029 - 004045	Administration	Ditto	
004046 - 004059	ALA	Committee Stage amendment to be proposed by Adm to Section 8(1)(e) of the Hong Kong Institute of Education Ordinance (Cap. 444) replacing “from among their member” with “from among their number”	
004100 - 004117	Chairman	Ditto	
004118 - 004137	Mr Jasper TSANG	Transfer of the authority to appoint Council members from the Chief Executive to the Council of the Hong Kong Institute of Education by the proposed amendment	
004138 - 004200	Chairman	Ditto	
004201 - 004220	Administration	Ditto	
004221 - 004330	Chairman	Consultation with the Hong Kong Institute of Education	Adm (para. 6(a))
004331 - 004337	Administration	Ditto	
004338 - 004611	Chairman	Adm to check whether “from among its members” in Section 8(1)(d) should be	Adm (para. 6(b))

		amended in the light of the proposed revised amendment to section 8(1)(e) Reasons for replacing “President” with “Chief Executive” rather than “Chancellor” in Section 8(1)(f) of the Hong Kong Institute of Education Ordinance	
004612 - 004635	Administration	Ditto	
004636 - 004745	Chairman	Ditto	Adm (para. 6(c))
004746 - 004752	Administration	Ditto	
004753 - 005023	Chairman	Ditto	
005024 - 005048	Administration	Ditto	
005049 - 005243	Chairman	Clause 60 Inclusion of officials politically appointed under the proposed accountability system for principal officials as “public officers” in section 10(1)(d) and the proposed section 10(3) of the Hong Kong Polytechnic University Ordinance	Adm (para. 6(d))
005244 - 005248	Administration	Ditto	
005249 - 000104	Chairman	Ditto	
010005 - 010020	Administration	Ditto	
010021 - 010143	Chairman	Clause 62	
010144 - 010207	Administration	Ditto	
010208 - 010314	Chairman	Clause 74	
010315 - 000318	Administration	Ditto	
010319 - 010858	Chairman	Clause 75	
010859 - 010903	Administration	Ditto	
010904 - 010935	Chairman	Clause by clause examination of Part XII of the Bill (Repeal of legislation relating to Kai Tak Airport)	
010936 - 010943	Administration	Ditto	
010944 - 010949	Chairman	Ditto	
010950 - 011040	ALA	Ditto	
011041 - 011128	Chairman	Ditto	
011129 - 011132	ALA	Ditto	
011133 - 011510	Chairman	Clause by clause examination of Part XIII of the Bill (Subsidiary legislation deemed laid before Legislative Council)	
011511 - 011548	Administration	Ditto	
011549 - 011644	Chairman	Ditto	

011645 - 011752	ALA	Ditto	
011753 - 011914	Chairman	Ditto	
011915 - 011923	Administration	Ditto	
011924 - 011939	Chairman	Ditto	
011940 - 011952	ALA	Ditto	
011953 - 012023	Chairman	Clause by clause examination of Part XV of the Bill (Miscellaneous amendments)	
012024 - 012027	ALA	Effect of changes in the title of the principal officials under the proposed accountability system for principal officials on clause 131	
012028 - 012156	Chairman	Ditto	
012157 - 012252	ALA	Ditto	
012253 - 012256	Chairman	Ditto	
012257 - 012330	ALA	Ditto	
012331 - 012619	Chairman	Clause 130 Reasons for retaining references to “Crown”, “Her Majesty’s Government” and “Her Majesty’s Forces” in section 3 of the Firearms and Ammunition Ordinance and for this clause to be deemed to have come into operation on 26 May 2000	
012620 - 012650	Administration	Ditto	Adm (para. 6(e) and (f))
012651 - 012950	Chairman	Clause 131 Adm to advise the reason for repealing Order 93, rule 14 of the Rules of the High Court	
012951 - 013000	Administration	Ditto	Adm (para. 6(g))
013001 - 013003	Chairman	Clause 131	
013004 - 013008	Administration	Ditto	
013009 - 013135	Chairman	Ditto	
013136 - 013145	Administration	Ditto	
013146 - 013656	Chairman	Ditto	
013657 - 013702	Administration	Ditto	
013703 - 013728	Chairman	Ditto	

013729 - 013759	ALA	Amendment to the definition of "Secretary" in section 2 of the Land Drainage Ordinance and the transfer of statutory functions to the principal officials under the proposed accountability system	
013800 - 013839	Chairman	Ditto	Adm (para. 6(h) and (i))
013840 - 013841	Administration	Ditto	
013842 - 013941	Chairman	Clause 131	
013942 - 013958	Administration	Ditto	
013959 - 014039	Chairman	Ditto	
014040 - 014042	ALA	Ditto	
014043 - 014329	Chairman	Outstanding issues to be discussed at next meeting on 9 May 2002	

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

Council Business Division 2
Legislative Council Secretariat
14 June 2002