

Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2001

List of Outstanding issues
(as at 30 April 2002)

The Bill	Discussed at meetings on	Outstanding issues	Remark
Part III (Enforcement of Compensation Order)	18 April 2002	<ul style="list-style-type: none"> The Administration to (a) explain the justification for clause 7 to take retrospective effect from 17 January 1997; and (b) regarding proposed section 73(5) of the Criminal Procedure Ordinance, to consider substituting "liable to pay" with "entitled to be paid". 	<ul style="list-style-type: none"> Clause by clause examination completed.
Part IV (Power of Court of Appeal and Appeal Committee to Award Cost)	18 April 2002	<ul style="list-style-type: none"> The Administration to provide information on the number of appeals brought by the prosecution under section 84 of the District Court Ordinance and dismissed by the Court of Appeal (Clause 9). 	<ul style="list-style-type: none"> Clause by clause examination completed.
Part V (Marital Rape and Related Sexual Offences)	28 March 2002 18 April 2002	<ul style="list-style-type: none"> The Administration's proposed "minimalist" amendment to simplify Part V of the Bill by way of a newly proposed section 118(3A) of the Crimes Ordinance was considered at the meeting on 18 April 2002 (<u>LC Paper No. CB(2)1619/01-02(01)</u>). The Bills Committee has requested the Administration to review the amendment in consultation with legal adviser, having regard to the implications on section 149 and item 1 of the Schedule to the Ordinance. 	

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Part VI (Consideration of Bail Application)	18 April 2002	<ul style="list-style-type: none"> Administration to consider revising the drafting of clause 18 by substituting "neither the court of committal nor any other court shall remand on bail the person" with "the court of committal or any other court shall not grant bail to the person". 	<ul style="list-style-type: none"> Clause by clause examination completed.
Part VII (Power of Court to Order Repayment of Deposit)	4 April 2002	<ul style="list-style-type: none"> The Administration's response to issues raised at the meeting on 4 April 2002 (<u>LC Paper No. CB(2)1753/01-02(02)</u>) will be considered at the meeting on 2 May 2002. The Administration's comments on the Bar Association's submission dated 4 April 2002 issued to members vide <u>LC Paper No. CB(2)1554/01-02</u> is awaited. The Bar Association's view on whether there are merits in amending the law along the lines of section 55(1) of the New South Wales Act is awaited. The Bar Association is likely to revert to the Panel in early May. 	<ul style="list-style-type: none"> The letter from the Law Society has been issued to members (<u>LC Paper No. CB(2)1477/01-02(01)</u>). The Law Society prefers a model along the lines of Section 55 of the New South Wales Conveyancing Act 1919. The letter dated 25 April 2002 from the Consumer Council has been issued to members (<u>LC Paper No. CB(2)1755/01-02(01)</u>). The Consumer Council maintains its support for giving the court power to order return of deposit, subject to the court's discretion being sufficiently defined. The Consumer Council suggests that where possible, the circumstances under which the discretion should not be exercised be specified.
Part X (Non-Immunity Clauses)	4 April 2002 18 April 2002	<ul style="list-style-type: none"> The Administration to explain why the amendments should not take effect from 1 July 1997. 	<ul style="list-style-type: none"> Clause by clause examination completed. The Administration will introduce a CSA

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			relating to section 2 of Schedule 1 to the Occupational Deafness (Compensation) Ordinance (Cap. 469).
Part XIV (Amendments to Legal Practitioners Ordinance)	18 March 2002 (meeting with the Law Society) 28 March 2002 18 April 2002	<ul style="list-style-type: none"> • The Administration will provide response regarding clause 126 when advice from the Society of Notaries is available. • The Administration's response to issues raised at the meeting on 18 April 2002 is awaited. 	<ul style="list-style-type: none"> • Clause by clause examination completed. • Both the Law Society and the Administration have agreed to replace the word "shall" with "may" in proposed new section 9(6) (clause 107). A CSA is required. • The rules to be made by the Council of the Law Society on the following would be subject to scrutiny of LegCo - <ul style="list-style-type: none"> (a) the practice and procedure, fixed penalty and the Council's fixed investigation costs relating to the proposed alternative disciplinary procedure; and (b) the conditions for issuing practising certificates to solicitors.