

立法會
Legislative Council

LC Paper No. CB(1)235/02-03
(These minutes have been seen
by the Administration)

Ref: CB1/BC/10/01

**Bills Committee on
Land (Miscellaneous Provisions) (Amendment) Bill 2002**

**Meeting on
Thursday, 24 October 2002, at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon LAU Ping-cheung (Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Fred LI Wah-ming, JP
Hon Margaret NG
Hon Emily LAU Wai-hing, JP
Hon Albert CHAN Wai-yip
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon Eric LI Ka-cheung, JP
Hon Miriam LAU Kin-yee, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
- Public officers attending** : Environment, Transport and Works Bureau

Mr S W CHIA
Acting Principal Assistant Secretary for the Environment,
Transport and Works (Works)
- Highways Department
- Mr H C WONG
Assistant Director of Highways

Department of Justice

Mr Peter H H WONG
Senior Assistant Solicitor General

Ms Marie SIU
Senior Government Counsel

Mr Leonard NG
Government Counsel

Clerk in attendance : Mr Andy LAU
Chief Assistant Secretary (1)2

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Ms Alice AU
Senior Assistant Secretary (1)5

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I Confirmation of minutes of meeting

- (LC Paper No. CB(1)2535/01-02 - Minutes of meeting held on 5 July 2002; and
LC Paper No. CB(1)20/02-03 - Minutes of meeting held on 19 September 2002)

The minutes of meetings held on 5 July 2002 and 19 September 2002 were confirmed.

II Meeting with the Administration

- (LC Paper No. CB(1)85/02-03(01) - Letter dated 18 September 2002 from Assistant Legal Adviser to the Administration;
LC Paper No. CB(1)85/02-03(02) - The Administration's reply dated 8 October 2002 to the Assistant Legal Adviser;
LC Paper No. CB(1)2514/01-02(05) - Information provided by the Administration in response to certain matters arising from the meeting on 5 July 2002;
LC Paper No. CB(1)133/02-03(01) - Submission dated 23 October 2002

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LC Paper No. CB(3)541/01-02 - from Hong Kong Cable Television Limited;
Appendix III to LC Paper No. - The Bill; and
CB(1)2164/01-02 - Marked-up copy of the Bill)

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

Admin 3. The Bills Committee requested the Administration to provide further information on the following to facilitate their consideration:

- (a) to provide a detailed breakdown of the work involved in the administration of the excavation permit system;
- (b) to provide information on whether an ordinary citizen could bring an action to compel the public officers concerned to perform the duties provided for in the new section 2A;
- (c) to provide information on past cases and the statutory reporting mechanism provided under the existing ordinances whereby the relevant Authority would report the matter to the Chief Secretary for Administration who should then ensure that the best practicable steps are taken to stop the contravention;
- (d) to provide information on the principles on which the Director of Highways requested the police to record or not to record a conviction, and the safeguards for the confidentiality of such information;
- (e) to consider whether it was necessary to include a new provision to reflect the Administration's intent that the Director of Highways would not request the police to record conviction of the offence(s) under the Bill;
- (f) to provide information on similar offences with a fine of \$200,000 or less including the nature and seriousness of such offences, and the basis for pitching the fine at such level for offences under section 10Q(1) of the Bill;
- (g) to provide information on the circumstances under which section 101E of the Criminal Procedure Ordinance (Cap. 221) would apply, particularly in cases whereby the offence was committed without the knowledge of the director concerned or because of the director's dereliction of duty; and
- (h) to provide information on whether it was a Government policy to recover costs involved in carrying out inspections and on the practices of

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Food and Environmental Hygiene Department, Buildings Department, Electrical and Mechanical Services Department and Labour Department, etc. in this respect.

4. The Bills Committee noted the submissions of Hutchison Global Crossings Limited and PCCW Limited which were tabled at the meeting.

(Post-meeting note: The submissions of Hutchison Global Crossings Limited and PCCW Limited were issued subsequently to members vide LC Paper No. CB(1)143/02-03.)

- Clerk 5. The Bills Committee requested the Clerk to ascertain the views of the Public Accounts Committee on the basis for determining the proposed charging scheme for road opening works, particularly the inclusion of costs involved in carrying out site inspections.

6. The Bill Committee agreed that the Bills Committee would hold the next meeting on Monday, 11 November 2002, at 8:30 am to continue discussion with the Administration. Utility undertakers and concerned parties should also be invited to attend the meeting to give further views on the Bill. Another Bills Committee meeting was scheduled to be held on Monday, 18 November 2002, at 10:45 am.

III Any other business

7. There being no other business, the meeting ended at 4:20 pm.

Council Business Division 1
Legislative Council Secretariat
8 November 2002

**Proceedings of the meeting of the Bills Committee on
Land (Miscellaneous Provisions) (Amendment) Bill 2002
Thursday, 24 October 2002, at 2:30 pm
in the Chamber of the Legislative Council Building**

| Time | Speaker | Subject(s) | Action required |
|---|---|--|--|
| <i>Agenda Item I - Confirmation of minutes of meeting</i> | | | |
| 000000-000451 | Chairman | <ul style="list-style-type: none"> - Confirmation of minutes of meetings - Further submissions by utility undertakers (UUs) - Decision of the House Committee on the way forward in dealing with matters relating to the imposition of criminal liability on Government | |
| <i>Agenda Item II - Meeting with the Administration</i> | | | |
| 000452-002708 | Admin Chairman Ms Emily LAU | Introduction on Admin's paper [LC Paper No. CB(1)2514/01-02(05)] | Admin to provide information as per paragraph 3(a) above |
| 002709-004019 | Ms Audrey EU Chairman Admin | <ul style="list-style-type: none"> - Criminal liabilities imposed by the Bill on UUs and Government - Liability of company directors - Reporting mechanism under section 2A | Admin to provide information as per paragraph 3(b) above |
| 004020-010614 | Ms Emily LAU Admin Chairman ALA5 Mr Albert CHAN | <ul style="list-style-type: none"> - Reporting mechanism - Record of criminal convictions under the Bill - Liability of company directors - Proposed new sanction under section 10Q(2) | Admin to provide information as per paragraphs 3(c) to 3(g) above |
| 010615-011949 | Ir Dr Raymond HO Admin Chairman | <ul style="list-style-type: none"> - Contravention committed by government or civil servant - Defence under section 10(6) - Proposed new sanction under section 10Q(2) - Drafting of the Bill | |
| 011950-012917 | Chairman Admin Ms Emily LAU | <ul style="list-style-type: none"> - Fee charged for audit site inspections - Policy of cost-recovery by government departments - Assessment on the impact of the proposed charging scheme on the business environment | <ul style="list-style-type: none"> - Admin to provide information as per paragraph 3(h) above - Clerk to ascertain the views of the Public Accounts Committee on the charging of fees for site inspections |
| 012918-013458 | Ms Audrey EU Admin Chairman | <ul style="list-style-type: none"> - Imposition of criminal liabilities on government departments who failed to comply - Same treatment for UUs and government departments | |

| Time | Speaker | Subject(s) | Action required |
|---|---|---|------------------------|
| 013459-014222 | Ir Dr Raymond HO Admin Chairman Ms Emily LAU | - User-pay principle in respect of the fee charged for audit site inspections - Disclosure of non-compliance by government departments | |
| 014223-014514 | Chairman Admin Ms Emily LAU | - Assessment on the impact of the proposed charging scheme on the business environment | |
| <i>Agenda Item III - Any other business</i> | | | |
| 014515-014750 | Chairman Clerk Ms Emily LAU | - Date of next meeting - UUs and concerned parties to give further views on the Bill | |

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