

立法會
Legislative Council

LC Paper No. CB(2)2593/02-03

(These minutes have been
seen by the Administration)

Ref : CB2/BC/7/01

**Bills Committee on
Prevention of Child Pornography Bill**

**Minutes of meeting
held on Thursday, 5 June 2003 at 10:45 am
in the Chamber of the Legislative Council Building**

Members present : Hon Andrew CHENG Kar-foo (Chairman)
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Eric LI Ka-cheung, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai
Hon YEUNG Yiu-chung, BBS
Hon Miriam LAU Kin-yea, JP
Hon CHOY So-yuk
Hon Henry WU King-cheong, BBS, JP
Hon Michael MAK Kwok-fung
Hon WONG Sing-chi
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

Members absent : Hon Margaret NG
Hon CHEUNG Man-kwong

Public Officers attending : Miss Eliza YAU
Principal Assistant Secretary for Security E

Miss Vivian CHAN
Assistant Secretary for Security E3

Mr John HUNTER
Deputy Principal Government Counsel
Department of Justice (International Law Division)

Miss Betty CHEUNG
Senior Government Counsel
Department of Justice (Law Drafting Division)

Mr Ian Robert MACKNESS
Chief Superintendent (Crime) (Support)
Hong Kong Police Force

Mr Armond CHAN
Senior Superintendent (Crime) (Support)
Hong Kong Police Force

Clerk in attendance : Mrs Sharon TONG
Chief Assistant Secretary (2)1

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mrs Eleanor CHOW
Senior Assistant Secretary (2)4

I. Meeting with the Administration

1. The Bills Committee deliberated (index of proceedings attached at **Annex**).
2. The Bills Committee requested the Administration -
 - (a) to consider whether clause 4(1)(d) should be singled out in line with the drafting of the defence provisions in the proposed Committee Stage amendments (CSAs) at Annex II of the paper entitled "Administration's Response to Issues Raised at the Meeting on 29 May 2003 (LC paper No. CB(2)2303/02-03(01) and review the drafting of the clause to ensure consistency with other defence clauses;
 - (b) to provide in due course a table summarizing the countries which exempted military aircraft, military vehicles or a ship of war from entry, search and seizure under warrant;
 - (c) to clarify whether money earned from child pornography was liable to forfeiture;

- (d) to propose consequential amendment to clause 10(2) as a result of the proposed CSAs to clause 4;
- (e) to propose CSA to new section 153P(3) under clause 16, taking into account offences set out in the new Schedule 2 that involved the defendant procuring a child for sexual exploitation by a third person, such as the offence under section 130 of the Crimes Ordinance;
- (f) to set out the individual sexual offences of the Crimes Ordinance which were not included in the new Schedule 2 under clause 18 and the reasons behind;
- (g) to consider providing in the Bill the same protection for mentally incapacitated persons of age over 16; and
- (h) to provide a full set of draft CSAs for the consideration of the Bills Committee at the next meeting.

II. Dates of future meetings

3. Members agreed that the next three meetings would be held on 11 June 2003 at 8:30 am, 16 June 2003 at 10:45 am and 19 June 2003 at 8:30 am.
4. The meeting ended at 12:50 pm.

(Post-meeting note - As the Bills Committee completed scrutiny of the Bill at the meeting on 11 June 2003. The meetings scheduled for 16 and 19 June 2003 have been cancelled.)

Council Business Division 2
Legislative Council Secretariat
20 June 2003

**Proceedings of the meeting of the Bills Committee on
Prevention of Child Pornography Bill
on Thursday, 5 June 2003 at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000302	Chairman	Dates of the next three meetings	
000303-001111	Admin	Briefing on the Administration's response to issues raised at the meeting on 29 May 2003 (LC Paper No. CB(2) 2303/02-03(01))	
001112-001249	Chairman	Clause-by- clause examination of the Bill	
001250-002205	Admin Hon Audrey EU ALA4	Clause 4(1) Difference between clause 4(1)(b) & (c) and 4(1)(d)	
002206-002517	Hon Miriam LAU Chairman Admin	Application of clause 4(1)(a) - (d)	
002518-002839	ALA4 Admin Hon Audrey EU Chairman	Order of the defence provision of clause 4(1)(d) concerning possession and consequential amendment to the drafting of the clause	Admin to consider whether clause 4(1)(d) should be singled out in line with the drafting of the defence provisions in the proposed Committee Stage amendments (CSAs) and review the drafting of the clause to ensure consistency with other defence clauses
002840-003014	Chairman Admin	Scrutiny of the proposed CSAs to clause 4 (Appendix II to LC Paper No. CB(2) 2303/02-03(01))	
003015-003159	Chairman Admin	Draft CSAs to clause 4(2) and (3)	
003200-003302	Admin	Draft CSAs to clause 4(4)	
003303-004222	Hon Audrey EU Admin Chairman	Application of and reasons for the draft CSAs to clause 4(3)(b)(i) - (iii)	

Time marker	Speaker	Subject(s)	Action Required
004223-004399	Chairman Admin Hon Audrey EU	Draft CSAs to clause 4(5) and (6)	
004400-005229	Chairman Admin Hon Audrey EU	Clause 5 and the proposed CSAs in LC Paper No. CB(2) 1580/02-03(01) Definition of the words "any thing" under clause 5(4)(a) and (b)	
005230-005956	Hon Cyd HO Admin	Circumstances for issuing a warrant under clause 5	
005957-010243	Hon Henry WU Admin Chairman	Whether government vehicles are exempted from clause 5 Exemptions under Clause 5(5)	Admin to provide in due course a table summarizing the countries which exempt military aircraft, military vehicles or a ship of war from entry, search and seizure under warrant
010244-010411	Admin Chairman	Clause 6	
010412-010504	Admin Chairman	Clause 7	
010505-010807	Admin Chairman	Reasons for applying different penalty levels for obstruction committed under clause 8(1) and (2)	
010808-011136	Admin Hon Audrey EU	Clause 9 Scope of forfeiture	Admin to clarify whether money earned from child pornography is liable to forfeiture
011137-012013	Admin Hon Cyd HO	Clauses 10 and 11 and the proposed CSAs in LC Paper No. CB(2) 1580/02-03(01) Definition of the words "the whole of the thing" under clause 11(5)	Admin to propose consequential amendment to clause 10(2) as a result of the proposed CSAs to clause 4
012014-012237	Admin	Clauses 12 and 13	
012238-013359	Chairman Admin ALA4	Clause 14 and the proposed CSAs in LC Paper No. CB(2) 1580/02-03(01) Establishing a defence under new section 138A(2) and (3) of the Crimes Ordinance (Cap. 200)	

Time marker	Speaker	Subject(s)	Action Required
013360-014043	Admin Chairman	Clause 15	
014044-014323	ALA4 Admin	Clause 16 Views on the defence provided in the new section 153P(3) of the Crimes Ordinance	Admin to propose CSA to new section 153P(3), taking into account offences set out in the new Schedule 2 that involve the defendant procuring a child for sexual exploitation by a third person, such as the offence under section 130 of the Crimes Ordinance
014324-015047	Chairman Admin Hon Cyd Ho Hon MA Fung- kwok	Clause 16 New section 153Q(4) of the Crimes Ordinance How to distinguish news from advertisement relating to commission against a child of act outside Hong Kong	
015048-015204	Admin	Clause 17	
015205-015549	ALA4 Admin Chairman	Clause 18	Admin to set out the individual sexual offences of the Crimes Ordinance which are not included in the new Schedule 2 and the reasons behind
015550-015814	Hon Cyd HO Admin SIN Chung-kai Chairman Hon Sophie LEUNG	Views on pornography of mentally incapacitated persons aged above 16	Admin to consider providing in the Bill the same protection for mentally incapacitated persons of age over 16
015815-015842	Admin Chairman	CSAs	Admin to provide a full set of draft CSAs for the consideration of the Bills Committee