

立法會

Legislative Council

LC Paper No. CB(2)1696/02-03

Ref : CB2/BC/11/01

**Bills Committee on
Evidence (Miscellaneous Amendments) Bill 2002**

**Minutes of second meeting
held on Friday, 14 March 2003 at 2:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon Cyd HO Sau-lan
Hon Andrew WONG Wang-fat, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Miriam LAU Kin-yee, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon CHAN Yuen-han, JP
Hon James TO Kun-sun
- Public Officers attending** : Mr Stephen WONG
Deputy Solicitor General
- Ms Amelia LUK
Deputy Law Officer (International Law)
- Mr Patrick CHEUNG
Senior Assistant Director of Public Prosecutions
- Mr Llewellyn MUI
Senior Government Counsel, Legal Policy Division
- Miss Agnes CHEUNG
Senior Government Counsel, Legal Policy Division
- Miss Selina LAU
Government Counsel, Law Drafting Division
- Mr Peter KAM
Government Counsel, Legal Policy Division

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

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mr Paul WOO
Senior Assistant Secretary (2)3

Action

I. Confirmation of minutes
(LC Paper No. CB(2)1444/02-03)

The minutes of meeting held on 14 February 2003 were confirmed.

II. Meeting with the Administration
(LC Paper Nos. CB(2)1446/02-03(01), (02) and (03))

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

3. The Administration was requested to -

Part I of the Bill

- (a) provide a draft Committee Stage amendment to extend the scope of the compellable offences under the new section 57(3) of the Criminal Procedure Ordinance to cover also a child of the family who was mentally incapacitated for the Bills Committee's consideration in due course;

Part II of the Bill

Proposed section 79I(2) of the Criminal Procedure Ordinance

- (b) include other factors which the court must be satisfied before it granted permission to a person to give evidence via live television link in criminal proceedings, such as in the interest of justice, in the interest of the defendant, the importance of the evidence to the case, and circumstances of the case etc;

Action

- (c) improve the drafting of the section. A member proposed that proposed section 79I(2)(a) be amended as "the person concerned is not an ordinarily resident in Hong Kong" and proposed section 79I(2)(b) be amended as "it is not convenient for the person to come to Hong Kong";

Others

- (d) provide a comparison on the proposal in the Bill vis-à-vis the arrangements adopted by other overseas jurisdictions, in terms of the actual operation and statutory provisions;
- (e) explain as a matter of policy whether it would be permissible for an overseas witness who might be arrested upon return to Hong Kong (e.g. a fugitive of justice) to give evidence via live television link; and
- (f) consider whether the meaning of "the place from which the person is giving evidence" in proposed section 79J of the Criminal Procedure Ordinance should be more clearly defined.

Admin

4. Members noted a letter from Mr Andrew Bruce on behalf of the Hong Kong Bar Association in response to the Bills Committee's request to give views on Part II of the Bill (LC Paper No. CB(2)1446/02-03(03)). Members agreed that the two legal professional bodies should be invited to attend the next meeting to give views on the Bill.

III. Date of next meeting

5. The third meeting of the Bills Committee was scheduled for 10 April 2003 at 4:30 pm.

6. The meeting ended at 3:35 pm.

Council Business Division 2
Legislative Council Secretariat
8 April 2003

Annex

**Proceedings of second meeting of the Bills Committee on
Evidence (Miscellaneous Amendments) Bill 2002
on Friday, 14 March 2003 at 2:30 pm in
Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000001-000135	Chairman	Confirmation of minutes of meeting on 14 February 2003 (LC Paper No. CB(2)1444/02-03). Invitation for Admin to brief members on its written responses to issues raised at the last meeting on 14 February 2003.	
000136-002044	Administration/ Chairman	The two papers prepared by Admin in response to issues raised on Parts I and II of the Bill at the last meeting (LC Paper Nos. CB(2)1446/02-03(01) and (02)).	
002045-002455	Ms Audrey EU/ Administration	The threshold for granting permission for giving evidence via live television link in criminal proceedings specified in proposed section 79I(2) of the Criminal Procedure Ordinance (CPO), and the comments expressed in a letter from Mr Andrew Bruce of the Bar Association on section 79I of CPO (LC Paper No. CB(2)1446/02-03(03)). Whether adequate protection would be available to persons giving evidence in a place outside Hong Kong via live television link in criminal cases.	
002456-003556	Ms Audrey EU/ Administration/ Chairman	Factors which must be satisfied before the court gave permission for taking evidence via live television link in criminal proceedings. Difference between civil and criminal proceedings regarding giving of evidence from witnesses outside Hong Kong via live television link.	Admin to respond to the concern that the threshold in new section 79I(2) of CPO was too low.

Time Marker	Speaker(s)	Subject(s)	Action required
003557-004154	Ms Audrey EU/ Administration/ Chairman/ Ms Miriam LAU	Proposed section 79I(2) of CPO should be revised to include additional relevant factors to enable the court to decide whether taking evidence by live television link should be permitted.	Admin to consider redrafting proposed section 79I(2).
004155-004832	Ms Audrey EU/ Administration/ Chairman	Whether as a matter of policy people who might be arrested in Hong Kong, e.g. a fugitive of justice, should be permitted to give evidence outside Hong Kong via live television link.	Admin to respond in writing.
004833-005108	Chairman	Comparison of the proposals in Part II of the Bill with the arrangements in overseas jurisdictions, in terms of actual operation and statutory provisions. The two legal professional bodies to be invited to attend the next meeting to give views on the Bill.	Admin to provide a comparison.
005109-005632	Ms Audrey EU/ Administration/ Chairman	Meaning of "the place from which the person is giving evidence" in proposed section 79J of CPO.	Admin to clarify in writing.
005633-005712	Chairman/ Administration	Admin's proposal to extend the scope of the compellable offences under the new section 57(3) of CPO to cover also a child of the family who was mentally incapacitated.	Admin to provide draft Committee Stage amendment for consideration of Bills Committee.
005713-005739	Ms Audrey EU	Operation of the new Technology Court	
005740-010032	Chairman/ Ms Miriam LAU	Date of next meeting	