

立法會
Legislative Council

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Paper for the House Committee meeting on 28 June 2002

**Report of the Bills Committee on
Statute Law (Miscellaneous Provisions) Bill 2001**

Purpose

This paper reports on the deliberations of the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2001 (the Bill).

The Bill

2. The Bill proposes miscellaneous amendments or provisions to the following Ordinances/subsidiary legislation -
- (a) the Employees Compensation Assistance Ordinance (Cap. 365), the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) and the Protection of Wages on Insolvency Ordinance (Cap. 380) (Part II of the Bill);
 - (b) the Criminal Procedure Ordinance (Cap. 221) (Part III of the Bill);
 - (c) the Hong Kong Court of Final Appeal Ordinance (Cap. 484) and the Costs in Criminal Cases Ordinance (Cap. 492) (Part IV of the Bill);
 - (d) the Crimes Ordinance (Cap. 200) (Part V of the Bill);
 - (e) the Fugitive Offenders Ordinance (Cap. 503) (Part VI of the Bill);
 - (f) the Conveyancing and Property Ordinance (Cap. 219) (Part VII of the Bill);
 - (g) the Administrative Appeals Board Ordinance (Cap. 442) (Part VIII of the Bill);

- (h) the Hong Kong Examinations Authority Ordinance (Cap. 261) (Part IX of the Bill);
- (i) the 15 Ordinances with "non-immunity" provisions applicable to relevant organisations (Part X of the Bill);
- (j) seven Ordinances relating to tertiary institutions (Part XI of the Bill);
- (k) various pieces of legislation relating to the former Kai Tak Airport (Part XII of the Bill);
- (l) the Form of Warrant (To Compel Attendance) Order (G.N. 5975 of 1996) (Part XIII of the Bill);
- (m) the Legal Practitioners Ordinance (Cap. 159) and its subsidiary legislation (Part XIV of the Bill); and
- (n) various Ordinances to rectify minor textual errors or inconsistencies in terminology etc (Part XV of the Bill).

3. According to the Legislative Council (LegCo) Brief on the Bill, most parts of the Bill propose to effect changes to improve the law which only involve minor or technical amendments to the legislation. The remaining parts of the Bill contain provisions introducing reforms to the existing law. These include Part V of the Bill on marital rape, Part VII on the proposed discretion of the court to order repayment of deposit to a purchaser, and Part XIV on the power of the Law Society of Hong Kong (the Law Society) to make rules or impose conditions on practice. Issues relating to Part V and Part VII of the Bill had previously been discussed at a number of meetings of the Panel on Administration of Justice and Legal Services (AJLS Panel).

The Bills Committee

4. At the House Committee meeting on 10 July 2001, Members agreed to form a Bills Committee to scrutinise the Bill. The membership list of the Bills Committee is in **Appendix I**. Under the chairmanship of Hon Margaret NG, the Bills Committee has held 9 meetings with the Administration. The Bills Committee has also met with representatives of the Law Society in discussing Part XIV of the Bill.

Deliberations of the Bills Committee

5. The main deliberations of the Bills Committee are summarised in the following paragraphs.

Marital rape and related sexual offences (Part V -- clauses 11 to 17)

6. At previous meetings of the AJLS Panel when the issue of marital rape was discussed, concerns were raised about the confusion caused by the definition of rape under section 118(3) of the Crimes Ordinance (Cap. 200) in that the term "unlawful sexual intercourse" could be interpreted, under the old common law interpretation, as sexual intercourse outside the bounds of marriage. It was also thought that there was a presumption of consent in marriage to sexual intercourse. Hence, it was sometimes thought that a husband could not be convicted of rape of his wife. The law was clarified in the English House of Lords decision of *Regina v R [1991] 4 All ER 481* to remove the old interpretation and presumption stated. The Panel considered that it was desirable to introduce legislative amendment to make it clear that marital rape is an offence.

7. The Administration advises the Bills Committee that in the case of *Regina v R*, the House of Lords had held that a husband may be guilty of rape of his wife if the wife does not consent to the sexual intercourse. In the views of the Administration, the House of Lords decision removes the outdated marital immunity under common law, i.e. a man could not be found guilty of rape of his wife. On the authority of this landmark judgment, therefore, marital rape is an offence. Nevertheless, the Administration supports the view that the legislation should be amended to put the matter beyond doubt.

8. Clause 12 of the Bill seeks to amend section 118 of Cap. 200 by deleting the word "unlawful" from "unlawful sexual intercourse" in section 118(3)(a), and expressly providing that "sexual intercourse" includes sexual intercourse between a husband and his wife. Clause 11 proposes to amend section 117 to define "unlawful sexual intercourse" used in Part XII of Cap. 200 to include non-consensual marital intercourse. Clauses 13 to 17 seek to make consequential amendments to certain (but not all) provisions which contain references to "unlawful sexual intercourse" or "unlawful sexual act".

9. In considering the scope of the proposed amendments, the Bills Committee agrees to the view expressed at meetings of the AJLS Panel that while it is necessary to review statutory sexual offences so as to remove outdated bias and give stronger protection to women, especially married women, it is desirable to bring about legislative amendment to remove the misconception on the offence of marital rape as a matter of urgency. The Bills Committee considers that instead of amending the sexual offence provisions in Part XII of Cap. 200, a "minimalist" approach mainly to deal with the offence of rape would suffice for the purpose of the present amendment exercise. A comprehensive review of the other non-rape sexual offences should be conducted thereafter as soon as possible. The Administration supports this proposal.

10. The Administration proposes to delete all the clauses in Part V of the Bill and replace clause 12 with a modified version of a proposed section 118(3A). The proposed section 118(3A) reads as follows -

"(3A) For the avoidance of doubt, and without affecting any other provisions of this Part, it is declared that in subsection (3)(a), "unlawful sexual intercourse" includes sexual intercourse that a man has with his wife if the wife at the time of the intercourse does not consent to it."

11. In the views of the Administration, with the proposed new section 118(3A), it is possible to retain "unlawful sexual intercourse" in section 118, and at the same time clarify that marital rape is an offence. Accordingly, clause 11 and clauses 13 to 17 of the Bill, which are mainly consequential to the originally proposed deletion of "unlawful" from section 118, become peripheral to the object of Part V, and may be deleted pending a future full review of sexual offences.

12. The Bills Committee accepts that the word "unlawful" may be retained in section 118 of Cap. 200. The Bills Committee has however asked the Administration to consider amending section 117 by providing an interpretation of "unlawful sexual intercourse" for the purposes of sections 118, 119, 120 and 121.

13. The Bills Committee notes that section 149(1) and item 1 of the Schedule to the Crimes Ordinance provide that where on a charge of rape the accused is acquitted, but it is proved that the accused is guilty of an offence under (a) section 119 (procurement of unlawful sexual act by threat or intimidation); or (b) section 120 (procurement by false pretences or false representations); or (c) section 121 (administering drugs to obtain or facilitate unlawful sexual act), he shall be convicted of such offence. The Bills Committee considers that to expressly provide that the interpretation of "unlawful sexual intercourse" applies for the purposes of sections 118, 119, 120 and 121 would ensure that an accused person acquitted of the offence of rape of his wife under section 118 could alternatively be convicted, in the circumstances of the case, of the non-rape sexual offences under sections 119, 120 or 121 when applying section 149 and the Schedule.

14. The Administration subsequently revises its amendment proposal by proposing to delete all the clauses in Part V except clause 11. Clause 11 is proposed to be replaced by a new section 117(1B) which reads -

"(1B) For the avoidance of doubt, it is declared that in this Part, "unlawful sexual intercourse" does not exclude sexual intercourse that a man has with his wife."

15. According to the Administration, the interpretation of "unlawful sexual intercourse" in the above proposed new section 117(1B) would make it clear that married women are protected under all of the sexual offence provisions. The Administration considers that the amendment gives statutory expression to the principal expounded in *Regina v R* and it is not necessary to limit the interpretation of "unlawful sexual intercourse" specifically to sections 118, 119, 120 and 121.

16. The Bills Committee has sought the views of the legal profession on Part V of the Bill and the Administration's proposed new amendments. The Law Society supports a minimalist approach and agrees that the immediate concern is to make it clear that a man may be guilty of rape of his wife. It is of the view that trying to offer a general definition of "unlawful sexual intercourse" for the purposes of Part XII of Cap. 200 may not be necessary, and the simplest means for clarifying the law is to delete "unlawful" from section 118(3)(a).

17. The Law Society, however, appreciates the difficulty as regards the interpretation of the other sections in Part XII of Cap. 200 which also contain the reference to "unlawful sexual intercourse" or "unlawful sexual act". The Law Society considers that if the word "unlawful" is retained and the approach of a new section 117(1B) is adopted, the provision should set out in express terms that the interpretation of "unlawful sexual intercourse" applies not only to section 118 but also to sections 119, 120 and 121 to enable alternative convictions under section 149 and the Schedule.

18. An academic has also made submissions to the Bills Committee on Part V of the Bill. He supports the view that a statutory provision defining "unlawful sexual intercourse" should cover sections 118, 119, 120 and 121. Other sexual offences should be the subject of a full scale review.

19. After further discussion of the Bills Committee, the Administration finally adopts the Bills Committee's proposal and revises the proposed section 117(1B) as follows -

"(1B) For the avoidance of doubt, it is declared that for the purposes of sections 118, 119, 120 and 121 and without affecting the generality of any other provisions of this Part, "unlawful sexual intercourse" does not exclude sexual intercourse that a man has with his wife."

20. The Bills Committee has considered the Law Society's query about law drafting in a double negative manner (i.e. "does not exclude") which in its view is difficult for ordinary members of the public to understand. The Law Society prefers an inclusive definition along the line of "'unlawful sexual intercourse" includes sexual intercourse that a man has with his wife". Both the Bills Committee and the Administration, however, are of the view that an

inclusive definition as suggested by the Law Society is not desirable as it might give rise to a misguided, unintended implication that sexual intercourse between a man and his wife is unlawful.

21. The Administration agrees with the Bills Committee that the revised new section 117(1B) in paragraph 19 above reflects the principle and effect of the decision in *Regina v R*. Moreover, the narrowing of the scope of the proposed amendment to sections 118 to 121 should not limit the protection afforded by *Regina v R* in relation to other sexual offences in other sections.

22. The Bills Committee accepts the Administration's proposed Committee Stage amendments (CSAs) to delete all the clauses in Part V except clause 11, and to replace clause 11 by the proposed new section 117(1B) specified in paragraph 19 above.

23. The Bills Committee requests that SJ, on resumption of the Second Reading debate on the Bill, should clarify the legislative intent and explain that the proposed CSAs to Part V of the Bill will not reduce in any way the protection given to women under the sexual offence provisions in Part XII of the Crimes Ordinance. An undertaking should also be made in the speech that a full scale review of the sexual offence provisions in Part XII will be conducted in the context of law reform without delay, and any progress will be reported to the relevant Panels. The Bills Committee also considers that the AJLS Panel should follow up the progress of the review.

24. The Administration responds that it has been working on other aspects of the law for the protection of women. An example is the bill on competence and compellability of spouses in criminal proceedings which has been recently introduced into LegCo.

Power of court to order repayment of deposit (Part VII -- clause 19)

25. Clause 19 of the Bill proposes to add a new section 12(1A) to the Conveyancing and Property Ordinance (Cap. 219) (CPO) to empower the court, if it thinks fit, to order the repayment of any deposit to a purchaser where it refuses to grant specific performance of a contract for the sale and purchase of property, or in any action for the return of a deposit. The proposed amendment is prompted by the comments made by Godfrey JA in *Wu Wing Kuen v Leung Kwai Lin Cindy [1999] 4 HKC 565* that the law should provide the court with a statutory discretion to return the deposit to enable it to do justice in the particular circumstances of a case. According to Godfrey JA, the purchaser in the case raised requisition for proof of the vendor's title on genuine grounds. However, the purchaser had his deposit forfeited because the court subsequently held that there was no defect in title.

26. The Administration advises the Bills Committee that the proposed amendment to section 12 of CPO is based on section 49(2) of the Law of Property Act 1925. The proposal met with both strong support and strong opposition when it was discussed in the AJLS Panel.

27. Some members of the Bills Committee are opposed to the proposed amendment. They consider that an unfettered statutory discretion of the court to order repayment of a deposit would have adverse impact on the certainty of contract and would encourage purchasers to seek to rescind transactions, particularly in a downturning market. This is undesirable in the situation of the local property market where a lot of transactions failed because of fluctuations in the price of property. The proposed amendment may also create an uncertainty in the law which would encourage purchasers to bring unmeritorious litigation to recover their deposit.

28. Some members suggest that to minimise unwarranted litigation, the Administration should consider ways to improve the process of execution of vendor and purchaser summonses to enable disputes between the parties to be resolved before the completion date of the transaction. The Bills Committee agrees that the AJLS Panel should be requested to follow up the suggestion with the Administration.

29. A member of the Bills Committee considers that the proposed amendment only favours the purchaser without offering a corresponding protection to the vendor. She expresses the view that it is arguable whether the vendor gains a "windfall" enrichment by forfeiting the purchaser's deposit. It is often difficult for the vendor to prove his loss. In fact, once a deposit is paid, the property is tied up until the time of completion, and the vendor cannot sell the property to another party at a higher price. The vendor thus suffers a "loss of opportunity". The member opines that the case of *Wu Wing Kuen* is a rare and exceptional case. She considers that if a statutory discretion of the court to repay deposit is to be provided at all, the exercise of the discretion should be limited only to cases where there is a genuine dispute on title.

30. The Bills Committee has sought the views of the two legal professional bodies and the Consumer Council on the proposed amendment. The Hong Kong Bar Association does not support the proposal. In its view, the proposed provision is an unnecessary intervention into the principle of freedom of contract and would introduce uncertainty to contractual rights. The Law Society of Hong Kong prefers an amendment along the lines of section 55 of the NSW Act. The Consumer Council maintains its support for giving the court a discretion to order return of a deposit, subject to the discretion being sufficiently defined.

31. The Bills Committee notes that section 55(1) of the NSW Act limits the power of the court to order the return of deposit to cases where there is a defect in the vendor's title. As section 55(1) has no application in cases where there is no defect in title, it does not assist in the context of Part VII of the Bill, whose legislative intent, as explained by the Administration, is to enable the court to do justice, where it sees fit, to a purchaser in breach of contract.

32. The Administration advises that the purpose of the proposed amendment is to fill a gap in the law by providing the court the ability to grant relief against forfeiture of the purchaser's deposit where the justice of the case requires. The Administration considers that it would not be desirable to restrict the discretion of the court to cases where transactions have fallen through because of a dispute on title. It also points out that judges can be relied upon for their good judgement in deciding the fairest course between the two parties, and in refusing unmeritorious claims for relief made by purchasers. The Administration considers that it is not necessary to specify the circumstances in which the discretion should not be exercised, as suggested by the Consumer Council.

33. The Administration further advises that in its view, the proposed discretion of the court would have negligible implications for the certainty of contract since it will operate only in very exceptional circumstances. Also, there is no reason to suppose that the courts of Hong Kong would not appropriately control the grant or refusal of relief in accordance with the law and principles of fairness as well as the practice of the local property market.

34. Some members of the Bills Committee have expressed support for the proposed amendment. A member considers that the exercise of the discretion necessarily involves a careful consideration by the court of all relevant factors, including the importance of the sanctity of contract, and the court is unlikely to order the return of the deposit save in the most obvious cases where justice requires. The concern that an unfettered discretion of the court would lead to unmeritorious litigation is not warranted.

35. The Administration accepts that there is need to further consider the proposal in the light of members' comments, and decides to propose a CSA to withdraw Part VII from the Bill.

Non-immunity clauses (Part X -- clauses 35 to 49)

36. Part X of the Bill deals with the amendment proposals to replace "Crown" by "Government" in the "non-immunity" clauses in 15 Ordinances to provide that the relevant organisations are not servants or agents of the Government and do not enjoy any immunity or privileges of the Government.

37. The background to Part X is that during the deliberations of the Bills Committee formed to study the Adaptation of Laws (No. 16) Bill 1999, the Committee rejected the Administration's proposal to replace "Crown" by "State" in the "non-immunity" clauses, and considered that the term "Crown" should be replaced by "Government". While taking on board the Committee's proposal, the Administration considered that it was beyond the ambit of the Adaptation of Laws Programme, and that it would be better carried out by way of law reform. Part X of the Statute Law (Miscellaneous Provisions) Bill 2001 now seeks to implement the amendments.

38. The Bills Committee has asked the Administration to consider whether it is necessary to provide for the amendments to take retrospective effect from 1 July 1997. The Administration advises that unlike amendments made under the Adaptation of Law Programme, the amendment proposals in Part X, which are law reform amendments, will take effect from the date when the Bill comes into operation. The Administration is of the view that it is unnecessary to introduce an amendment to provide for Part X of the Bill to take effect from 1 July 1997. The term "Crown" will be construed as "State" under section 2A(1) of the Interpretation and General Clauses Ordinance (Cap. 1) between 1 July 1997 and the date when the Bill is enacted.

39. In response to the Bills Committee, the Administration confirms that the organisations established under the Ordinances specified in Part X of the Bill have not enjoyed any immunity or privileges of "State" since 1 July 1997.

40. The Bills Committee has no objection to the Administration's proposal.

41. Arising from the discussion on Part X of the Bill, the Bills Committee proposes and the Administration agrees to introduce a similar amendment to section 2 of Schedule 1 to the Occupational Deafness (Compensation) Ordinance (Cap. 469) by repealing the reference to "Crown" and substituting "Government".

Amendments to the Legal Practitioners Ordinance (Part XIV -- clauses 104 to 126)

Disposal of complaints by the Tribunal Convenor of the Solicitors Disciplinary Tribunal (SDT) Panel (Part XIV -- clauses 108 and 109)

42. Clauses 108 and 109 of the Bill seek to amend the Legal Practitioners Ordinance (Cap. 159) to implement a new disciplinary procedure for the summary disposal of complaints by the Tribunal Convenor of SDT by way of a fixed penalty imposed on a solicitor who admits liability for the breach of a prescribed provision, practice direction or principle of professional conduct prescribed in rules made by the Council of the Law Society.

43. The Bills Committee has sought the views of the Law Society on the proposed fixed penalty system. According to the Law Society, the proposed system was intended to deal with minor technical breaches by solicitors not involving dishonesty. Cases of serious offence and persistent offenders would be the subject of full SDT hearings. The Law Society has explained the grounds for the proposed sanction system and the scope and categories of breaches suitable for summary disposal by way of a fixed penalty. It has also advised on how the proposed system would operate, including the mechanism for fixing the level of penalty and the rules to be made by the Council of the Society to implement the proposed system.

44. In further response to the Bills Committee, the Law Society has advised that a total of 168 "letters of regret or disapproval" were issued to solicitors in 2000, as compared with 118 in 1999. Out of the 168 letters of disapproval, 37 came within the scope of the proposed fixed penalty system. The others involved minor complaints against solicitors. The Law Society would finalise the list of offences which might be dealt with under the proposed system.

45. Some members express the view that the Law Society should fully explain to its members the details of how the proposed fixed penalty mechanism would operate. They also stress that in implementing the system, the Law Society should not lose sight of the need to maintain transparency, and protect the public's right to know concerning breaches of professional conduct committed by legal practitioners.

46. The Bills Committee is of the view that the proposed section 9A(1B) under clause 108 of the Bill does not safely preclude breaches involving dishonesty from being disposed of by way of the proposed fixed penalty system. Some members have pointed out that deliberate breaches might not necessarily involve dishonesty. Whether or not a particular breach would be fit for summary disposal by way of the fixed penalty system should be determined by the facts and circumstances of each specific case. They consider that it is preferable to add an express provision in the new section 9A(1B) to specify that the Council of the Law Society should take into account whether the alleged breach involves a dishonest intent.

47. After consulting the Law Society, the Administration advises that it has no objection to introduce an express provision as proposed by the Bills Committee. The Administration will move a CSA.

48. Members note that the matters which can be dealt with by way of the fixed penalty system would be specified in the rules to be made by the Council of the Law Society for the purpose of the proposed section 9A(1A), and such rules would be subject to the negative vetting by LegCo. Members consider that if a subcommittee is formed by the House Committee to scrutinise the

relevant rules, the subcommittee should take note of the views expressed by the Bills Committee on Part XIV of the Bill.

49. The Administration has proposed amendments to clause 2 to provide that sections 108(a), 109, 110 and 116 of the Statute Law (Miscellaneous Provisions) Ordinance 2001 shall come into operation on a day to be appointed by the Secretary for Justice (SJ) by notice published in the Gazette. The Administration explains that the amendments are required because it is necessary for the Council of the Law Society to make the relevant rules before the sections in question commence operation.

Transfer to the Council of the Law Society the rule-making powers of the Chief Justice to prescribe grounds for refusal to issue a practising certificate and conditions that may be attached to a certificate (Part XIV -- clause 105)

50. Under section 6(5)(b) of the Legal Practitioners Ordinance, the Law Society may issue a practising certificate subject to such conditions as may be prescribed by the Chief Justice. To date, the Chief Justice has not prescribed any conditions for the issue of a practising certificate. According to the Administration, this created a loophole that has been exploited by some solicitors. If the Law Society is empowered under section 6(5)(a), (b) and (e) to make appropriate rules, it would be able to react swiftly to counteract undesirable developments in legal practices. The Chief Justice has agreed to transfer his powers under section 6(5)(a), (b) and (e) of the Ordinance to the Council of the Law Society. Such rule-making power would be subject to the Chief Justice's prior approval under section 73(2) of the Ordinance.

51. The Bills Committee agrees that there is urgency to implement the amendment proposals to enable the Law Society to impose restrictions upon the practice of solicitors for the protection of the public interest.

52. The Bills Committee has sought the response from the President of the Law Society on the concern expressed by a member of the Law Society that the amendments proposed under clause 105 of the Bill would provide unrestricted power of the Council of the Law Society to refuse the issue of a practising certificate and to impose any conditions on a practising certificate. This might result in unfair hardship to the solicitors so affected.

53. The President of the Law Society explains that the purpose of the proposed amendments is to improve management of solicitors' practice and professional conduct for the better protection of public interest. The new rules to be made by the Council of the Law Society must first be approved by the Chief Justice and vetted by LegCo. In the event of refusal of a practising certificate or the imposition of conditions, a solicitor who feels aggrieved has a right to appeal to the Chief Judge.

54. The Bills Committee agrees that the Law Society, being a self-governing body elected by its own members, should be given the proposed power to make rules as it sees fit to improve regulation of the profession. Moreover, the proposed amendment would not restrict in any way the aggrieved persons from seeking redress through proper and legal channels.

Power of the Society of Notaries to issue or refuse to issue a practising certificate or amend an already issued certificate (Part XIV -- clause 126)

55. The Bills Committee has sought the views from the Hong Kong Society of Notaries on whether section 40E(6) of the Legal Practitioners (Amendment) Ordinance 1998 (27 of 1998) (the Amendment Ordinance) should be amended along the lines of clause 105 of the Bill so that the rule-making power of the Chief Justice under the subsection would be transferred to the Council of the Society of Notaries.

56. The Society of Notaries advises that it had recently finalised the eight sets of rules required for bringing into operation section 3 of the Amendment Ordinance, and a consultation exercise on the draft rules will be conducted among its members in the near future. In its view, the above proposed amendment to section 40E(6) of the Amendment Ordinance will necessitate further revisions to the draft subsidiary rules and cause further delay of the implementation of section 3 of the Amendment Ordinance. It therefore does not prefer that the proposed amendment be made at this stage. Furthermore, the Society of Notaries is happy with the arrangement under the existing new section 40E(6) for the rule-making power to rest with the Chief Justice.

Miscellaneous amendments (Part XV -- clauses 127 to 131)

57. The Administration proposes to introduce CSAs to the Schedule of the Bill in order to give effect to the change in post titles resulting from the accountability system for principal officials.

Deliberations of the Bills Committee on other Parts of the Bill

58. The Bills Committee has also considered the other Parts of the Bill and raised no objection to the technical CSAs proposed by the Administration.

Committee Stage amendments

59. A set of the CSAs to be moved by the Administration is in **Appendix II**. The Bills Committee has not proposed any CSAs.

Date of resumption of Second Reading debate

60. The Administration has given notice to resume the Second Reading debate on the Bill at the Council meeting on 10 July 2002.

Advice sought

61. Members are invited to note the deliberations of the Bills Committee.

Council Business Division 2
Legislative Council Secretariat
27 June 2002

Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2001

Membership list

Chairman	Hon Margaret NG
Members	Hon Cyd HO Sau-lan Hon James TO Kun-sun Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP Hon Jasper TSANG Yok-sing, JP Hon Ambrose LAU Hon-chuen, GBS, JP Hon Emily LAU Wai-hing, JP Hon Audrey EU Yuet-mee, SC, JP
	(Total : 8 Members)
Clerk	Mrs Percy MA
Legal Adviser	Ms Bernice WONG
Date	8 March 2002

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2001

COMMITTEE STAGE

Amendments to be moved by the Secretary for Justice

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>(a) In subclause (1), by adding ", 108(a), 109, 110, 116" after "102(b)".</p> <p>(b) In subclause (2), by deleting "February" and substituting "January".</p> <p>(c) By adding -</p> <p style="padding-left: 40px;">"(3A) Sections 108(a), 109, 110 and 116 shall come into operation on a day to be appointed by the Secretary for Justice by notice published in the Gazette."</p>
7	<p>In paragraph (b), in the proposed section 73(5), by deleting "liable to pay or who may have paid the compensation" and substituting "entitled thereto".</p>
11	<p>By deleting the proposed section 117(1B) and (1C) and substituting -</p>

"(1B) For the avoidance of doubt, it is declared that for the purposes of sections 118, 119, 120 and 121 and without affecting the generality of any other provisions of this Part, "unlawful sexual intercourse" (非法性交、非法的性交) does not exclude sexual intercourse that a man has with his wife.".

12 By deleting the clause.

13 By deleting the clause.

14 By deleting the clause.

15 By deleting the clause.

16 By deleting the clause.

17 By deleting the clause.

Part VII By deleting the Part.

New By adding -

**"Occupational Deafness (Compensation)
Ordinance**

44A. Provisions with respect to the Board and members thereof

Schedule 1 to the Occupational Deafness (Compensation) Ordinance (Cap. 469) is amended in section 2 by repealing "Crown" where it twice appears and substituting "Government".

53

(a) By deleting paragraph (a)(iii) and substituting -

"(iii) in paragraph (d), by repealing "members and appointed by the President" and substituting "number and appointed by the Council";".

(b) In paragraph (a)(iv), by deleting "member" and substituting "number".

New

By adding -

"75A. The powers of the University

Section 7(1) is amended by repealing "課程" and substituting "科目".

107

In paragraph (b), in the proposed section 9(6), by deleting "shall" and substituting "may".

108 In paragraph (a), in the proposed section 9A(1B),
by adding -

"(aa) whether the alleged breach has been
committed with a dishonest intent;".

126 In paragraph (a), by deleting "and (2)" and
substituting ", (2) and (4)".

Schedule (a) In item 3, by deleting "Secretary for Planning
and Lands" and substituting "Secretary for
Housing, Planning and Lands".

(b) In item 8, by deleting "Secretary for Planning
and Lands" and substituting "Secretary for
Housing, Planning and Lands".

(c) In item 11, by deleting everything after
"repeal" and substituting ""Secretary for
Housing, Planning and Lands" and substitute
"Secretary for the Environment, Transport and
Works".