

立法會
Legislative Council

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the Administration)

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**Bills Committee on
National Security (Legislative Provisions) Bill**

**Minutes of meeting
held on Tuesday, 3 June 2003 at 2:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon IP Kwok-him, JP (Chairman)
Hon Ambrose LAU Hon-chuen, GBS, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung, BBS
Hon LAU Kong-wah
Hon LAU Wong-fat, GBS, JP

Hon Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon SZETO Wah
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

**Members :
absent**

Hon Martin LEE Chu-ming, SC, JP
Hon Margaret NG
Hon James TO Kun-sun
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon LAU Chin-shek, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon LAW Chi-kwong, JP
Hon Henry WU King-cheong, BBS, JP
Hon WONG Sing-chi

**Public Officers :
attending**

Mrs Regina IP, GBS, JP
Secretary for Security

Mr Timothy TONG, JP
Permanent Secretary for Security (Acting)

Mr Bob ALLCOCK, BBS, JP
Solicitor General

Mr Gilbert MO
Deputy Law Draftsman

Mr James O'NEIL
Deputy Solicitor General

Ms Winnie NG
Administrative Assistant to Secretary for Security

Miss Adeline WAN
Senior Government Counsel

Mr Hubert LAW
Assistant Secretary for Security

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

Staff in attendance : Mr Jimmy MA, JP
Legal Adviser

Ms Bernice WONG
Assistant Legal Adviser 1

Mr Raymond LAM
Senior Assistant Secretary (2)5

I. Meeting with the Administration

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

2. The Bills Committee requested the Administration to provide a written response to the following issues raised by members -

Committee Stage amendments to the Bill proposed by the Administration

Enforcement to be consistent with the Basic Law

- (a) to consider the need to include Article 87 of the Basic Law in the provisions requiring enforcement to be consistent with Chapter III of the Basic Law in the proposed section 18A of the Crimes Ordinance (CO), proposed section 1A of the Official Secrets Ordinance and proposed section 2A of the Societies Ordinance (SO);

Treason

- (b) to review the drafting of new section 2(1)(c) of CO in relation to the term "藉著";

Sedition

- (c) to consider improving the drafting of new sections 9A(1) and 9C(1) of CO in relation to the terms "任何人", "他人", "另一人" and "某人";
- (d) to consider revising the time limit for prosecution in new section 9C(3) of CO to a period between six months and 3 years;

Proscription of local organizations

- (e) to review the need for the regulations and rules to provide for the admissibility of evidence as reflected in new section 8D(6) of SO; and

Investigation power

- (f) to consider the need to amend "reasonably believes" in new section 18B of CO to "reasonably suspects".

3. The Bills Committee requested the Legal Adviser to advise generally on the power to make regulations and rules for appeals under new sections 8E and 8F of SO.

4. The Administration informed members that the term "煽惑" before "進行公眾暴亂" in the proposed Committee Stage amendments (CSAs) to new section 9A(1) of CO should read "慫恿".

5. Secretary for Security (S for S) stressed that the enactment of new section 8A(2)(c) of SO would not lead to the introduction of Mainland laws or national security concepts into Hong Kong. Even where a Mainland organization was prohibited in the Mainland on national security grounds, whether a local organization subordinate to that Mainland organization would be proscribed would be based on the laws of Hong Kong, the definition of "national security" in the laws of Hong Kong, common law principles, the human rights standards as applied to Hong Kong and the circumstances of each case.

6. Ms Emily LAU suggested that the Bills Committee should hold meetings to receive the views of the public on the CSAs proposed by the Administration. As there were divided views among members, a vote was taken on the suggestion. Six members voted in favour of the suggestion while 12 members voted against.

7. The Bills Committee agreed that individuals and organizations who had expressed views on the Bill to the Bills Committee be invited to give written views, if any, on the CSAs proposed by the Administration.

8. The Bills Committee agreed that a verbatim record on the Administration's responses to questions raised by Mr CHEUNG Man-kwong at the meeting on 31 May 2003 on the drawbacks of the proposed proscription of local organizations should be prepared.
9. S for S said that the Administration hoped that the Bills Committee would complete scrutiny of the Bill within the following two weeks, so that the Second Reading debate on the Bill could resume at the Council meeting on 9 July 2003.
10. The meeting ended at 6:35 pm.

Council Business Division 2
Legislative Council Secretariat
4 July 2003

**Proceedings of the meeting of the Bills Committee on
National Security (Legislative Provisions) Bill
on Tuesday, 3 June 2003 at 2:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000148	Chairman	Opening remarks	
000149 – 003454	Admin Chairman Hon CHEUNG Man-kwong Hon Emily LAU Hon LAU Kong-wah Hon LEUNG Fu-wah	Briefing on the preliminary draft of Committee Stage amendments (CSAs) (3 June 2003) tabled by the Administration	
003455 - 004004	Hon MA Fung-kwok Admin Chairman	Legal effect of the term "intentionally" in new section 9A(1) of the Crimes Ordinance (CO)	
004005 - 004503	Hon Raymond HO Chairman Admin	Chinese counterpart of the term "likely" in new sections 9A and 9C of CO; Chinese counterpart of the term "violent public disorder" in new section 9A of CO	
004504 - 011842	Hon Audrey EU LA Admin	Whether the passage by the Legislative Council (LegCo) of a bill which amended certain provisions of a piece of legislation implied that LegCo also endorsed other provisions of the relevant legislation not amended by the bill; whether rules made under new section 8F of the Societies Ordinance (SO) would be subject to regulations made under new section 8E of SO; whether new section 8E of SO should be enacted before the draft regulations to be made under the section were provided to the Bills Committee; whether there was a need to include Article 87 of the Basic Law (BL87) in the provisions	Admin to consider the need to include BL87 in the provisions requiring enforcement to be consistent with Chapter III of BL in the proposed section 18A of CO, proposed section 1A of the Official Secrets Ordinance and proposed section 2A of SO; to review the need for the regulations and rules to provide for the admissibility of evidence as reflected in new section 8D(6) of SO

Time marker	Speaker	Subject(s)	Action Required
		requiring enforcement to be consistent with Chapter III; whether there was a need for the regulations and rules to provide for the admissibility of evidence as reflected in new section 8D(6) of SO	
011843 - 012807	Hon CHAN Kam-lam Admin	Purpose of the proposed CSAs to section 2(1)(c) of CO; effect of the proposed CSAs to section 9A of CO and section 8E and 8F of SO	
012808 - 014610	Hon LAU Kong-wah LA Chairman Admin	Whether the proposed new rule making powers under new sections 8E and 8F of SO were appropriate; why a time limit of three years was proposed in new section 9C(3) of CO; whether a person could be caught by new section 9C of CO, if the seditious publication concerned was published many years ago; to consider improving the drafting of new sections 9A(1) and 9C(1) of CO in relation to the terms "任何人", "他人", "另一人" and "某人"	Admin to consider improving the drafting of new sections 9A(1) and 9C(1) of CO in relation to the terms "任何人", "他人", "另一人" and "某人"
014611 - 015909	Hon Miriam LAU Admin Chairman	Drafting of new section 2(1)(c) of CO in relation to the term "藉著"; drafting of new sections 9A(1) and 9C(1) of CO in relation to the terms "任何人", "他人", "另一人" and "某人"; time limit for prosecution in new section 9C(3) of CO	Admin to review the drafting of new section 2(1)(c) of CO in relation to the term "藉著"; to consider improving the drafting of new sections 9A(1) and 9C(1) of CO in relation to the terms "任何人", "他人", "另一人" and "某人"; to consider revising the time limit for prosecution in new section 9C(3) of CO to a period between six months and 3 years

Time marker	Speaker	Subject(s)	Action Required
015910 - 020214	Hon HUI Cheung-ching Admin Chairman	Whether "reasonably believes" in new section 18B of CO should be amended to "reasonably suspects"	Admin to consider the need to amend "reasonably believes" in new section 18B of CO to "reasonably suspects"
[Break]			
021620 - 022733	Hon LEUNG Fu-wah Chairman Admin LA	Legal effect of the term "intentionally" in new section 9A(1) of CO	
022734 - 024149	Hon Albert HO Admin Chairman	Whether provisions in the Bill as amended by the CSAs were consistent with the Johannesburg Principles; why rules made under new section 8F of SO would be subject to regulations made under new section 8E of SO; whether there should be special procedures for appeals against proscription	
024150 - 025321	Hon Cyd HO Admin	Whether Secretary for Security (S for S) should be empowered to make regulations under new section 8E of SO; whether the time limit in new section 9C(3) of CO should be reduced to six months and whether the time limit should also be applicable to new section 9A of CO; whether a person would be caught by new section 9C of CO for handling a seditious publication, if a publication was determined seditious by the court many years after it was published	
025322 - 030453	Hon LEE Cheuk-yan Admin Hon Audrey EU	Whether the CSAs were adequate; whether an appeal mechanism similar to that under the United Nations (Anti-Terrorism Measures) Ordinance should be adopted for the appeals mechanism proposed in the Bill	

Time marker	Speaker	Subject(s)	Action Required
030454 - 032101	Hon CHEUNG Man-kwong Chairman Admin	Weaknesses of the proposed proscription and appeal mechanism; whether there was a need for new section 8A(2)(c) of SO; whether S for S should be empowered to make regulations under new section 8E of SO; verbatim record on the Administration's responses to questions raised by Mr CHEUNG Man-kwong at the meeting on 31 May 2003 on the drawbacks of the proposed proscription of local organizations	Clerk to prepare the verbatim record
032102 - 032941	Hon Emily LAU Chairman Admin	Whether the Bills Committee should hold meetings to receive the views of the public on the CSAs proposed by the Administration; whether there was a need for the investigation power in new section 18B of CO; whether the enactment of new section 8A(2)(c) of SO would lead to the introduction of Mainland laws or national security concepts into Hong Kong; power to make regulations and rules for appeals under new sections 8E and 8F of SO	LA to advise generally on the power to make regulations and rules for appeals under new sections 8E and 8F of SO
032942 - 033607	Hon NG Leung-sing Admin	Burden of proof under new section 8D of SO	
033608 - 033904	Hon Ambrose LAU Admin Chairman	Whether the Chief Executive in Council, instead of S for S, should be empowered to make regulations under new section 8E of SO; whether the element of "another person is likely to be induced" in new section 9A(1) of CO was found in existing laws on incitement	

Time marker	Speaker	Subject(s)	Action Required
033905 - 034116	Admin Chairman	Timing for completion of scrutiny of the Bill; resumption of Second Reading debate on the Bill	
034117 - 035501	Hon TAM Yiu-chung Hon Albert HO Hon LEE Cheuk-yan Hon YEUNG Yiu-chung Hon LEUNG Fu-wah Hon Cyd HO Hon Emily LAU Hon Audrey EU Chairman	Whether the Bills Committee should hold meetings to receive the views of the public on the CSAs proposed by the Administration; voting on whether the Bills Committee should hold meetings to receive the views of the public on the proposed CSAs	
035502 - 035632	Hon Cyd HO Hon Audrey EU Chairman	Whether individuals and organizations who had expressed views on the Bill to the Bills Committee should be invited to give written views on the CSAs proposed by the Administration	
035633 - 040530	Chairman Hon Audrey EU Hon Albert HO Hon LEE Cheuk-yan Hon CHAN Kam-lam Admin	Way forward in studying the Bill, provision of the Administration's responses to outstanding issues raised by members; whether additional meetings should be held on 14 and 21 June 2003 to discuss the Bill with the Administration	