

**立法會**  
**Legislative Council**

Ref : CB2/BC/5/02

LC Paper No. CB(2) 2763/02-03  
(These minutes have been seen by  
the Administration)

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

**Minutes of meeting  
held on Saturday, 7 June 2003 at 9:00 am  
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 Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, JP  
Dr Hon LUI Ming-wah, JP  
Hon NG Leung-sing, JP  
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP  
Hon CHEUNG Man-kwong  
Hon HUI Cheung-ching, JP  
Hon CHAN Kwok-keung  
Hon CHAN Kam-lam, JP  
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 Miriam LAU Kin-yee, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk  
Hon Andrew CHENG Kar-foo  
Hon SZETO Wah  
Hon Timothy FOK Tsun-ting, SBS, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Henry WU King-cheong, BBS, 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

**Member attending** : Dr Hon YEUNG Sum

**Members absent** : Hon Cyd HO Sau-lan  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Hon Eric LI Ka-cheung, JP  
Hon Fred LI Wah-ming, JP  
Hon Margaret NG  
Hon James TO Kun-sun  
Hon Bernard CHAN, JP  
Hon SIN Chung-kai  
Hon Andrew WONG Wang-fat, JP  
Hon LEUNG Yiu-chung  
Hon LAU Chin-shek, JP  
Hon LAU Wong-fat, GBS, JP  
Dr Hon LAW Chi-kwong, JP  
Dr Hon TANG Siu-tong, JP  
Hon Abraham SHEK Lai-him, 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 Johann WONG  
Principal Assistant Secretary for Security

Mr James O'NEIL  
Deputy Solicitor General

Ms Winnie NG  
Administrative Assistant to Secretary for Security

Miss Adeline WAN  
Senior Government Counsel

Ms Francoise LAM  
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  
  
Mr Raymond LAM  
Senior Assistant Secretary (2)5

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## **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 and information sought by members -

Committee Stage amendments on time limit for prosecution against handling  
sedition publication

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(a) to consider shortening the proposed time limit for prosecution in the proposed new section 9C(3) of the Crimes Ordinance;

Investigation power

(b) to provide information on the existing guidelines on the seizure of exhibits for Police officers, including whether a list of exhibits seized

was provided to the person concerned and whether there was a time limit for the detention of conveyance;

- (c) to consider the suggestion in the submission from Mr Simon YOUNG (Submission No. 164) that a direction given under new section 18B of CO should be made in writing;

Committee Stage amendments on proscription of local organizations

- (d) to consider narrowing the term "detriment" in the proposed new section 8E(2)(b) of the Societies Ordinance; and
- (e) to consider providing that regulations for appeals to be made by Secretary for Security (S for S) under the proposed new section 8E of SO would be subject to the approval of the Legislative Council.

3. S for S confirmed that before the regulations for appeals under the proposed new section 8E of SO were made, proceedings in respect of appeals against proscription under new section 8A of SO would not be held in the absence of an appellant and any legal representative appointed by him. In this connection, Legal Adviser (LA) said that regulations made under new section 8E of SO were not only confined to procedures relating to appeals where proceedings were to be held in the absence of the appellant and his legal representative. Solicitor General undertook to discuss the issue with LA.

4. Ms Audrey EU protested that the Administration had not consulted the legal profession and academics on the proposals relating to the criteria for appointing the "legal practitioner" referred to in new section 8E(4)(a) and (b) of SO. She also protested that the Administration had not explained in its paper entitled "Special procedures for appeals against proscription" (Paper No. 67) what such a legal practitioner could and could not do, and whether there would be any security check in the selection of such a legal practitioner. S for S said that functions and criteria for selection of such a legal practitioner would be set out in subsidiary legislation which would be subject to scrutiny by the Legislative Council. She said that there would be consultation on the draft subsidiary legislation.

5. S for S informed members that the Administration intended to give notice for resumption of Second Reading debate on the Bill at the Council meeting on 9 July 2003. The Chairman said that if the Second Reading debate on the Bill was to resume at the Council meeting on 9 July 2003, the Administration would have to issue a letter of consultation regarding resumption to the Chairman of the House Committee. The Bills Committee would have to decide at the meeting on 17 June 2003 whether to support the resumption of Second Reading debate on the Bill at the Council meeting on 9 July 2003, and make a verbal report to the House Committee at its meeting on 20 June 2003, followed by a written report on 27 June 2003. The Chairman of the House

Committee would give her signification to the Administration on 21 June 2003. The deadline for giving notice of resumption of Second Reading debate on the Bill would be 23 June 2003 and the deadline for giving notice of moving Committee Stage amendments (CSAs) would be 28 June 2003.

6. The Bills Committee agreed that additional meetings be held on 14 and 21 June 2003 from 2:00 pm to 6:00 pm to continue discussion with the Administration. The Chairman said that the meetings to be held on 10 and 14 June 2003 could be allocated for clause-by-clause examination of the Bill, while any CSAs to be proposed respectively by the Administration and Members could be discussed at the meeting to be held on 17 June 2003.

7. Ms Emily LAU opposed the resumption of Second Reading debate on the Bill at the Council meeting on 9 July 2003. She protested that additional meetings were scheduled on 14 and 21 June 2003 to study the Bill.

8. Mr Albert HO said that the Democratic Party considered that there was no urgent need for the resumption of Second Reading debate on the Bill at the Council meeting on 9 July 2003. He opposed holding additional meetings on 14 and 21 June 2003 to study the Bill.

9. The Bills Committee requested the Clerk to prepare a list of papers relevant to the respective study areas of the Bill.

10. The meeting ended at 12:30 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 Saturday, 7 June 2003 at 9:00 am  
in the Chamber of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000-000130	Chairman	Opening remarks	
000131-000254	Admin	Papers issued; resumption of Second Reading debate on the Bill	
000255-001539	Hon Audrey EU Admin	Administration's papers relating to special procedures for appeals against proscription and assets of a proscribed organization	
001540-001631	Hon Albert HO Chairman	Further questions on papers provided by the Administration	
001632-002322	Hon LAU Kong-wah Admin Chairman	Whether the term "形勢" in the proposed new section 2(1)(c) of the Crimes Ordinance (CO) should be amended to "利益"; guidelines on the seizure of exhibits for Police officers	<b>Admin to provide information on the existing guidelines on the seizure of exhibits for Police officers, including whether a list of exhibits seized was provided to the person concerned and whether there was a time limit for the detention of conveyance</b>
002323-002701	Hon Howard YOUNG Admin	How the assets of a proscribed organization were to be dealt with; coverage of new Schedule 2 of the Societies Ordinance (SO)	
002702-004932	Hon Audrey EU Chairman Hon CHEUNG Man-kwong Admin	Approach for dealing with the papers provided by the Administration; what a legal practitioner referred to in the proposed new section 8E(4)(a) and (b) of SO could and could not do; whether there would be any security check in the selection of such a legal practitioner; whether	

Time marker	Speaker	Subject(s)	Action Required
		consultation had been made by the Administration on the functions and process for selection of such a legal practitioner and the special procedures for appeals against proscription	
004933-010007	Chairman Hon Albert HO Hon CHEUNG Man-kwong Hon Emily LAU	Whether the Administration should brief members on the papers provided	
010008-010439	Hon CHAN Kam-lam Admin	Effect of the Committee Stage amendments proposed by the Administration to the proposed new section 9A of CO; meaning of the term "ordinary person" in the proposed new section 9A(1A)(b) of CO	
010440-012418	Hon Albert HO Admin Chairman	Criteria for the selection of a legal practitioner referred to in the proposed new section 8E(4)(a) and (b) of SO; how the assets of a proscribed organization which was not a company were to be dealt with; special procedures in other jurisdictions	
012419-014227	Hon Emily LAU Chairman Hon LAU Kong-wah Hon Albert HO Hon Audrey EU LA Hon TAM Yiu-chung	Whether the Administration should brief members on the papers provided; whether issues relating to the proposed special procedures for appeals against proscription and the assets of a proscribed organization should be referred to the Panel on Administration of Justice and Legal Services for follow-up	
[Break]			
015637-021035	Chairman Hon Miriam LAU Admin LA	Difference between the proposed special procedures for appeals against proscription and those in other jurisdictions; proposed time limit for prosecution in the proposed new section 9C(3) of CO; whether the term "detriment" in the proposed new section 8E(2)(b) of SO should be narrowed	<b>Admin to consider shortening the proposed time limit for prosecution in the proposed new section 9C(3) of CO; to consider narrowing the term "detriment" in the proposed new section 8E(2)(b) of SO</b>

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
021036-021356	Chairman Admin	Whether regulations for appeals to be made by Secretary for Security (S for S) under the proposed new section 8E of SO would be subject to the approval of the Legislative Council (LegCo)	<b>Admin to consider providing that regulations for appeals to be made by S for S under the proposed new section 8E of SO would be subject to the approval of LegCo</b>
021357-022704	Hon Audrey EU Admin	Whether there should be a time limit for prosecution under new section 9A of CO; whether there would be security checks on a legal practitioner under new section 8E(4)(a) and (b) of SO; whether the term "ordinary person" in the proposed new section 9A of CO had the same meaning as "reasonable person"; difference between the CSAs proposed by the Administration on 3 and 6 June 2003	
022705-024839	Admin Hon Emily LAU	Briefing on the Committee Stage amendments proposed by the Administration (1 <sup>st</sup> draft of 6 June 2003)	
024840-030058	Hon Audrey EU Admin Chairman LA	Whether provisions in the Bill relating to amendments to SO would not come into force until regulations were made under new section 8E of SO; suggestion in the submission from Mr Simon YOUNG (Submission No. 164) that a direction given under the proposed new section 18B of CO should be made in writing	<b>Admin to consider the suggestion in the submission from Mr Simon YOUNG (Submission No. 164) that a direction given under new section 18B of CO should be made in writing</b>
030059-032539	Chairman Hon Emily LAU Hon Howard YOUNG Hon CHAN Kam-lam Hon NG Leung-sing Hon Albert HO	Arrangements for coming meetings; whether additional meetings should be scheduled to discuss the Bill with the Administration; whether the Administration should brief members on the papers provided; deadlines for giving notices, if Second Reading debate on the Bill was to resume on 9 July 2003; whether Second Reading debate	



<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
		on the Bill should resume on 9 July 2003	

Council Business Division 2  
Legislative Council Secretariat  
4 July 2003