

立法會
Legislative Council

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(These minutes have been seen by
the Administration)

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

**Minutes of meeting
held on Saturday, 14 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
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Eric LI Ka-cheung, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon CHAN Kam-lam, JP
Hon SIN Chung-kai
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 CHOY So-yuk
Hon Timothy FOK Tsun-ting, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon LAU Ping-cheung
Hon MA Fung-kwok, JP

Members absent :

- Hon Cyd HO Sau-lan
- Hon Albert HO Chun-yan
- Hon LEE Cheuk-yan
- Hon Martin LEE Chu-ming, SC, JP
- Hon Fred LI Wah-ming, JP
- Hon Margaret NG
- Hon James TO Kun-sun
- Hon CHEUNG Man-kwong
- Hon Bernard CHAN, JP
- Hon LEUNG Yiu-chung
- Hon Andrew WONG Wang-fat, JP
- Hon LAU Chin-shek, JP
- Hon Miriam LAU Kin-yee, JP
- Hon Emily LAU Wai-hing, JP
- Hon Andrew CHENG Kar-foo
- Hon SZETO Wah
- Dr Hon LAW Chi-kwong, JP
- Dr Hon TANG Siu-tong, JP
- Hon Henry WU King-cheong, BBS, JP
- Hon Michael MAK Kwok-fung
- Hon WONG Sing-chi
- Hon Audrey EU Yuet-mee, SC, JP

Public Officers attending :

- Mrs Regina IP, GBS, JP
Secretary for Security
- Mr Bob ALLCOCK, BBS, JP
Solicitor General
- Mr Gilbert MO
Deputy Law Draftsman
- Ms Winnie NG
Administrative Assistant to Secretary for Security
- Mr Johann WONG
Principal Assistant Secretary for Security
- Miss Adeline WAN
Senior Government Counsel
- Ms Francoise LAM
Senior Government Counsel

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

I. Meeting with the Administration - clause-by-clause examination of the Bill

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

2. The Bills Committee examined the Bill clause-by-clause and requested the Administration to provide a written response to the following issues raised and information sought by members -

- (a) to consider amending the Chinese text of the proposed heading for Part II of the Crimes Ordinance (CO) from "其他危害國家的安全罪行" to "其他危害國家安全的罪行";
- (b) to provide the judicial authorities on the interpretation of the term "ordinary person" in the proposed new section 9A(1A)(b) of CO;
- (c) to consider amending the expression "an ordinary person would likely be induced" in the proposed new section 9A(1A)(b) of CO along the lines of "an ordinary person, if so incited, would likely be induced";
- (d) to consider the need to provide that the terms "import" and "export" in the proposed new section 9C(2)(c) of CO were to be interpreted in accordance with their definition in the Interpretation and General Clauses Ordinance;
- (e) to consider shortening the time limit for prosecution against handling seditious publications in the proposed new section 9C(3) of CO; and
- (f) to consider improving the drafting of the proposed new section 9D(3)(d) of CO in relation to the term "classes".

3. The Administration undertook to state at the resumption of Second Reading debate on the Bill that all military references in the Laws of Hong Kong, including

those under sections 6 and 7 of CO, would be adapted in an adaptation of laws bill to be introduced before the end of this year.

4. Mr LEUNG Fu-wah opposed the proposed Committee Stage amendment which sought to add the term "intentionally" before the term "incites" in 9A(1)(a) and (b) of CO.

5. The meeting ended at 12:30 pm.

Council Business Division 2
Legislative Council Secretariat
18 July 2003

**Proceedings of the meeting of the Bills Committee on
National Security (Legislative Provisions) Bill
on Saturday, 14 June 2003 at 9:00 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 – 000525	Chairman	Relevant papers; commencement of clause-by-clause examination of the Bill	
000526 – 000712	Admin	Explaining the proposed new section 2 of the Crimes Ordinance (CO)	
000712 – 000857	Hon LEUNG Fu-wah Chairman LA	Interpretation of the term "Chinese national" in the proposed new section 2(1) of CO	
000858 – 001323	Hon Abraham SHEK Admin LA Chairman	Meaning of the proposed new section 2(1)(a)(ii) of CO; whether there were precedents on the interpretation of the term "intimidate"	
001324 - 001535	Hon CHAN Kam-lam Admin	Whether the drafting of the proposed section 2(1) of CO would make it difficult to prosecute a person for treason	
001536 – 001842	LA Admin	Whether there was a need to amend the expression "is a part of foreign armed forces at war with the People's Republic of China" in the proposed section 2(1)(a) of CO along the lines of "remains as a part of foreign armed forces at war with the People's Republic of China"	
001843 – 002142	Hon TAM Yiu-chung Admin	Whether the term "形勢" in the proposed new section 2(1)(c) of CO should be amended to "利益"	
002143 – 002725	Hon Jasper TSANG Admin	Whether there was a need to amend the expression "is a part of foreign armed forces at war with the People's Republic of China" in the proposed section 2(1)(a) of CO along the lines of "remains as a part of foreign armed forces at war with the People's Republic of China"	

Time marker	Speaker	Subject(s)	Action Required
002726 – 002902	Hon NG Leung-sing Admin	Interpretation of the term "him" in the proposed new section 2(3) of CO	
002903 – 003118	Hon Abraham SHEK Admin	Whether it was appropriate to use the term "instigate" in the proposed new section 2(1)(b) of CO	
003119 – 003336	Hon Howard YOUNG Admin LA	Whether the provision of medical assistance or humanitarian aid to foreign nationals would amount to assisting public enemy under the proposed new section 2(1)(c) of CO	
003337 – 004021	Hon HUI Cheung-ching Admin Chairman LA	Problems encountered by persons with dual nationality in relation to the proposed new section 2(1)(c) of CO	
004022 – 004221	Chairman Admin	Explaining the proposed new section 2A of CO	
004222 – 005518	Hon Jasper TSANG Hon Abraham SHEK Admin Chairman	Whether there was a need to provide that peaceful demonstrations would not amount to serious criminal means	
005519 – 005732	LA Chairman Hon Howard YOUNG	Interpretation of the terms "disestablish" and "basic system" in the proposed section 2A(1)(a) of CO	
005733 – 005917	Chairman Admin	Explaining the proposed new section 2B of CO	
005917 - 010205	Hon Mrs Selina CHOW Admin LA	Interpretation of the term "serious criminal means" in the proposed new section 2B(1)(a) of CO	
010206 - 010346	Chairman Admin	Explaining the proposed new section 2C of CO	
010347 – 010857	LA Admin	Meaning of the expression "由協議的一方或多於一方" in the proposed new section 2C(1) of CO; coverage of the proposed new section 2C of CO	
010858 – 011157	Chairman Admin	Explaining the proposed new section 2D of CO	

Time marker	Speaker	Subject(s)	Action Required
011158 – 011212	Hon MA Fung-kwok Admin	Whether the proposed removal of time limit for prosecution against treason had any retrospective effect	
011213 – 011245	Chairman Admin	Explaining the proposed amendment to the heading of Part II of CO	
011246 - 011341	Hon Ma Fung-kwok Admin	Whether the Chinese text of the proposed heading for Part II of CO should be amended from "其他危害國家的安全罪行" to "其他危害國家安全的罪行"	Admin to consider amending the Chinese text of the proposed heading for Part II of the CO from "其他危害國家的安全罪行" to "其他危害國家安全的罪行"
011342 – 012207	Hon HUI Cheung-ching Hon Jasper TSANG Admin Chairman	Adaptation of terms relating to the military forces in CO	
012308 – 012534	LA Admin Hon Mrs Selina CHOW	Whether the Bill should come into operation after the completion of adaptation of terms in CO	
012535 - 013030	Hon Mrs Selina CHOW Admin LA	English version of the heading for Part II of CO	
013109 - 013300	Chairman Admin LA	Explaining the proposed amendments to section 7 of CO	
013301 - 013547	Chairman Admin	Explaining the proposed new section 9A of CO	
013548 – 014125	Hon Jasper TSANG Admin	Whether the expression "would likely be induced" in the proposed new section 9A(1A)(b) of CO should be amended to "would be likely to be induced"	
014126 – 014434	Hon LAU Kong-wah Admin	Whether there was a need for the expression ", in Hong Kong or elsewhere," in the proposed new section 9A(1)(b) of CO	

Time marker	Speaker	Subject(s)	Action Required
014435 – 015106	Hon LEUNG Fu-wah Chairman Admin LA	Effect of the proposed addition of the term "intentionally" to the proposed new section 9A(1)(a) and (b) of CO	
[Break]			
020422– 020523	Hon LEUNG Fu-wah LA Chairman	Whether the term "intentionally" should be added to the proposed new section 9A(1)(a) and (b) of CO	
020524 – 020807	Hon MA Fung-kwok Admin	Whether the proposed addition of the term "intentionally" to the proposed new section 9A(1)(a) and (b) of CO would result in prosecution difficulties	
020806 – 021542	Hon Mrs Selina CHOW Admin Chairman	Whether the term "intentionally" should be added to the proposed new section 9A(1)(a) and (b) of CO; drafting of the expression "an ordinary person would likely be induced" in the proposed new section 9A(1A)(b) of CO	
021543 – 021618	LA Admin	Judicial authorities on the interpretation of the term "ordinary person" in the proposed new section 9A(1A)(b) of CO	Admin to provide the judicial authorities on the interpretation of the term "ordinary person" in the proposed new section 9A(1A)(b) of CO
021617 – 022213	Hon SIN Chung-kai Admin Chairman	Whether Internet service providers would be caught by the proposed new section 9A for seditious materials on the bulletin board of their web pages	
022214 – 022422	Hon Jasper TSANG Admin Hon Mrs Selina CHOW	Whether the expression "an ordinary person would likely be induced" in the proposed new section 9A(1A)(b) of CO should be amended along the lines of "an ordinary person, if so incited, would likely be induced"	Admin to consider amending the expression
022423 – 022644	Chairman Admin LA	Explaining the proposed new sections 9B and 9C of CO	

Time marker	Speaker	Subject(s)	Action Required
022645 – 022823	Hon LAU Kong-wah Admin Hon Mrs Selina CHOW	Time limit for prosecution against handling seditious publications in the proposed new section 9C(3) of CO	Admin to consider shortening the time limit for prosecution against handling seditious publications in the proposed new section 9C(3) of CO
022824 – 023952	Hon SIN Chung-kai Admin LA Chairman	Whether the term "publishes" in the proposed section 9C(2)(a) of CO should be defined having regard to the explanation of "author", "editor" and "publisher" in section 3(3) of the United Kingdom Defamation Act 1996; whether there was a need to provide that the terms "import" and "export" in the proposed new section 9C(2)(c) of CO were to be interpreted in accordance with their definition in the Interpretation and General Clauses Ordinance	Admin to consider whether there was a need to provide that the terms "import" and "export" were to be interpreted in accordance with their definition in the Interpretation and General Clauses Ordinance
023953 – 025137	Hon Jasper TSANG Admin LA Chairman	Whether there was a need for the proposed new section 9D(3) of CO	
025138 – 031414	Hon LAU Ping-cheung Hon Mrs Selina CHOW Hon Jasper TSANG Hon Abraham SHEK Admin LA Chairman	Chinese version of the term "mistaken" in the proposed section 9D(3)(a) of CO; drafting of the proposed new section 9D(3)(d) of CO in relation to the term "classes"	Admin to consider improving the drafting of the proposed new section 9D(3)(d) of CO in relation to the term "classes"
031415 – 031851	Chairman Admin LA	Consequential amendments to CO	
031706 - 031745	Admin	Circumstances under which a search warrant would be obtained under section 13 of CO	
031746 - 031851	Chairman Admin	Reasons for retaining section 18 of CO	
031852 – 031932	Hon LAU Ping-cheung Admin	Interpretation of section 18 of CO	

Time marker	Speaker	Subject(s)	Action Required
031933 – 032219	Chairman Admin	Explaining the proposed new sections 18A to 18E of CO	
032220 – 032428	Hon Ambrose LAU Admin Chairman	Whether prosecution against treason did not require consent of the Secretary for Justice under existing provisions in CO	

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