

立法會
Legislative Council

LC Paper No. CB(2)1339/04-05
(These minutes have been seen
by the Administration)

Ref : CB2/BC/4/04

Bills Committee on Statute Law
(Miscellaneous Provisions) Bill 2005

Minutes of the first meeting
held on Thursday, 31 March 2005 at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon Margaret NG (Chairman)
Hon Miriam LAU Kin-ye, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon KWONG Chi-kin

Member absent : Hon Albert HO Chun-yan

Public Officers attending : Mr Stephen Kai-yi WONG
Deputy Solicitor General

Mr Michael SCOTT
Senior Assistant Solicitor General

Mr Michael LAM
Senior Government Counsel
Law Drafting Division

Ms Stella CHAN
Government Counsel
Legal Policy Division

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

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mr Paul WOO
Senior Council Secretary (2)3

Action

I. Election of Chairman

Ms Margaret NG was elected Chairman of the Bills Committee.

II. Meeting with the Administration

(LP 3/00/9C – Legislative Council Brief on the Bill

LC Paper No. CB(2)1162/04-05(01) – Marked up copy of the Bill

LC Paper No. CB(2)1163/04-05(02) – Background Brief prepared by the Secretariat)

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).
3. The Bills Committee requested the Administration to respond/provide information in relation to the following issues -

Proposed amendments to transfer power to determine appeals under the Medical Clinics Ordinance (Cap. 343) from the Chief Executive (CE) in Council to the Administrative Appeals Board (AAB)
(Clauses 6 and 7 in Division 3, Part 2 of the Bill)

- (a) the nature of the appeals dealt with under the Medical Clinics Ordinance, the grounds for the proposed transfer of power, and whether the relevant parties such as the medical profession had been consulted on the proposal;
- (b) the composition of AAB, and the differences between the procedures in handling appeals by CE in Council and AAB;

Proposed amendments to transfer the chairmanship of certain rules committees from the Chief Justice to the Chief Judge of the High Court
(Clauses 8 to 10 in Division 4, Part 2 of the Bill)

- (c) the grounds for proposing the amendments;

Proposed amendments to change the name of the Convocation of the Chinese University of Hong Kong from "評議會" to '校友評議會'

(Clauses 16 to 26 in Division 1, Part 3 of the Bill)

- (d) the Chinese names of the Convocation of other Universities;

Proposed amendments to the Firearms and Ammunition Ordinance (Cap. 238) to make the possession of imitation of firearms an indictable offence

(Clause 34 in Division 6, Part 3 of the Bill)

- (e) the definition of "imitation firearms";
- (f) whether it was necessary to amend section 20(1) of Cap. 238 to make the offence an indictable offence which could be tried in the Court of First Instance or the District Court, as the penalty for the offence under section 20(1) was only imprisonment for two years;
- (g) the number of previous cases where a magistrate had imposed imprisonment for more than two years for the offence under section 20(2) of Cap. 238;

Proposed amendments to the Prevention of Bribery Ordinance (Cap. 201) to prohibit a person who was required to surrender his travel document from leaving Hong Kong

(Clauses 35 and 36 in Division 7, Part 3 of the Bill)

- (h) the objective of the proposed amendments, and how the proposed amendments and other enforcement measures could ensure that a person who was the subject of a notice under section 17A(1) of Cap. 201 to surrender his travel document would be prevented from leaving Hong Kong while such notice was in force. As members had pointed out, an individual could only be arrested if he failed to surrender his travel document. However, the individual could surrender his travel document, hence satisfying a section 17A(1) notice, and still used his Hong Kong Identity Card to leave Hong Kong;

Proposed amendments to repeal provisions in Ordinances providing that a decision of the Court of Appeal on an appeal was final

(Clauses 39 to 121 in Division 9, Part 3 of the Bill)

- (i) the judgment of the Court of Final Appeal in *A Solicitor v The Law Society of Hong Kong & SJ*, which held that section 13(1) of the Legal Practitioners Ordinance (Cap. 159) was unconstitutional; and

Proposal to remove a discrepancy in meaning between the English and Chinese texts of section 4(28) of the Summary Offences Ordinance (Cap. 228)

(Clause 189 in Division 2, Part 6 of the Bill)

- (j) the basis for the proposal, e.g. whether the original policy and legislative intent with regard to the offence of nuisances committed in public places etc had been taken into account.

(Post-meeting note: The Administration's written response was issued to the Bills Committee on 21 April 2005 vide LC Paper No. CB(2)1341/04-05(01))

4. The Bills Committee agreed that The Hong Kong Bar Association and The Law Society of Hong Kong should be invited to provide written views on the Bill, in particular on the proposed amendments which concerned the Judiciary and the legal profession, and to attend a future meeting of the Bills Committee to present their views.

5. The Bills Committee agreed to commence clause by clause examination of the Bill at the second meeting, and requested the Department of Justice to coordinate attendance of the relevant policy Bureaux at the second and third meetings to discuss the provisions of the Bill other than those which related to the Judiciary and the legal profession. The Judiciary Administration and the legal professional bodies would be invited to attend the fourth meeting to discuss the provisions which concerned them. The Bills Committee aimed at completing scrutiny of the Bill and reporting to the Council on its deliberation within the current session.

III. Dates of next meetings

6. The next two meetings of the Bills Committee were scheduled as follows –

- (a) 26 April 2005 at 8:30 am; and
- (b) 3 May 2005 at 10:45 am.

(Post-meeting note: After consultation with the Chairman, the next four meetings of the Bills Committee were scheduled as follows : (a) 26 April 2005 at 8:30 am; (b) 9 May 2005 at 10:45 am; (c) 24 May 2005 at 2:30 pm; and (d) 7 June 2005 at 8:30 am.)

7. The meeting ended at 4:25 pm.

**Proceedings of the first meeting of the Bills Committee on
Statute Law (Miscellaneous Provisions) Bill 2005
on Thursday, 31 March 2005 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000000 – 000113	Ms Margaret NG Ms Miriam LAU Ms Eudrey EU	Election of Chairman of Bills Committee.	
000114 – 000821	Chairman Ms Miriam LAU Ms Eudrey EU Admin	Approach to be adopted by the Bills Committee in studying the Bill.	
000822 – 002308	Admin Chairman Ms Audrey EU Ms Miriam LAU	Legislative Council Brief on the Bill (LP 3/00/9C) and paper provided by the Admin for the meeting of the Panel on Administration of Justice and Legal Services held on 14 December 2004 on the major proposed amendments in the Bill (Appendix I in Background Brief prepared by the Secretariat – LC Paper No. CB(2)1163/04-05(02)).	
002309 – 002428	Admin Chairman Ms Miriam LAU	Proposed amendment to the Theft Ordinance (Cap. 210) to bring the terminology of the definition of “deception” in the Ordinance into line with that of the definition of “deceit” in the Ordinance which carries a similar meaning – Clause 32 in Division 4, Part 3 of the Bill. (Paragraphs 3 and 4 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	
002429 – 004301	Admin Chairman Ms Audrey EU Ms Miriam LAU Mr KWONG Chi-kin	Proposed amendments to the Firearms and Ammunition Ordinance (Cap. 238) to make the possession of imitation of firearms an indictable offence – Clause 34 in Division 6, Part 3 of the Bill. (Paragraph 5 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	Admin to respond to the issues raised by the Bills Committee (paragraphs 3(e) to (g) of the minutes refer).
004302 – 004539	Admin Chairman Ms Audrey EU	Proposed amendments to the pensions legislation to transfer to the Secretary for the Civil Service certain functions of the Chief Secretary for Administration relating to the pensions of public officers – Clauses 3 and 4 in Division 1, Part 2 of the Bill.	

Time Marker	Speaker(s)	Subject(s)	Action required
		(Paragraph 6 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	
004540 – 004658	Admin Chairman Ms Audrey EU	Proposed amendments to the Chinese University of Hong Kong Ordinance (Cap. 1109) to change the name of the Convocation of the Chinese University of Hong Kong from "評議會" to "校友評議會" – Clauses 16 to 26 in Division 1, Part 3 of the Bill. (Paragraphs 7 and 8 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	Admin to respond to the issues raised by the Bills Committee (paragraph 3(d) of the minutes refers).
004659 – 005138	Admin Chairman	Proposed amendments to transfer power to determine appeals under the Medical Clinics Ordinance (Cap. 343) from the Chief Executive in Council to the Administrative Appeals Board – Clauses 6 and 7 in Division 3, Part 2 of the Bill. (Paragraph 9 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	Admin to respond to the issues raised by the Bills Committee (paragraphs 3(a) and (b) of the minutes refer).
005139 – 005344	Admin Ms Miriam LAU Chairman	Proposed amendments to the Intellectual Property (Miscellaneous Amendments) Ordinance 2001 (2 of 2001) to remove the references to certain amending provisions that are no longer necessary – Clauses 181 and 182 in Division 1, Part 6 of the Bill. (Paragraph 10 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	
005345 – 011307	Admin Chairman Ms Audrey EU Mr KWONG Chi-kin	Proposed amendments to the Prevention of Bribery Ordinance (Cap. 201) to prohibit a person who is required to surrender his travel document from leaving Hong Kong – Clauses 35 and 36 in Division 7, Part 3 of the Bill. (Paragraphs 11 and 12 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	Admin to respond to the issues raised by the Bills Committee (paragraph 3(h) of the minutes refers).
011308 – 011410	Admin Chairman	Proposed amendments to the Legal Aid Services Council Ordinance (Cap. 489) to empower the Legal Aid Services Council to do such things as are necessary to enable it to exercise its functions and to appoint staff, and to extend the time limit within which the Council must submit an annual report to the Chief Executive – Clauses 27 to 29 in Division 2, Part 3 of the Bill. (Paragraphs 13 to 15 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	

Time Marker	Speaker(s)	Subject(s)	Action required
011411 – 011545	Admin Chairman	Proposed amendments to the Oaths and Declarations Ordinance (Cap. 11) to transfer to the Director of the Chief Executive's Office the function of the Chief Secretary for Administration to administer the Oath of Secrecy taken by the Clerk or Deputy Clerk to the Executive Council – Clause 5 in Division 2, Part 2 of the Bill. (Paragraph 16 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	
011546 – 011832	Admin Chairman Ms Miriam LAU	Proposed amendments to the Judicial Officers Recommendation Commission Ordinance (Cap. 92) to require a member of the Judicial Officers Recommendation Commission who may be selected to fill a vacancy in judicial offices to disclose whether or not, if he were to be selected, he is willing to accept such appointment – Clause 122 in Division 1, Part 4 of the Bill. (Paragraphs 17 and 18 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	Bills Committee to invite views from the legal professional bodies
011833 – 012159	Admin Chairman Ms Audrey EU	Proposed amendments to transfer the chairmanship of certain rules committees from the Chief Justice to the Chief Judge of the High Court – Clauses 8 to 10 in Division 4, Part 2 of the Bill. (Paragraph 19 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	(a) Admin to respond to the issues raised (paragraph 3(c) of the minutes refers); and (b) Bills Committee to invite views from the legal professional bodies.
012200 – 012401	Admin Chairman	Proposed amendments to make provisions or further provisions for the professional qualifications of certain judicial officers – Clauses 124 to 175 in Division 3, Part 4 of the Bill. (Paragraph 20 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	Bills Committee to invite views from the legal professional bodies
012402 – 012459	Admin Chairman	Proposed amendments to certain provisions in the Trade Marks Ordinance (Cap. 559) to reflect the original intention of those provisions – Clauses 30 and 31 in Division 3, Part 3 of the Bill. (Paragraph 21 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	

Time Marker	Speaker(s)	Subject(s)	Action required
012500 – 013332	Admin Chairman Mr KWONG Chi-kin	Proposed amendment to remove a discrepancy in meaning between the English and Chinese texts of section 4(28) of the Summary Offences Ordinance (Cap. 228) relating to the offence of nuisances committed in public places etc – Clause 189 in Division 2, Part 6 of the Bill. (Paragraph 22 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	Admin to respond to the issues raised by the Bills Committee (paragraph 3(j) of the minutes refers).
013333 – 013457	Admin Chairman	Proposed amendment to the Crimes Ordinance (Cap. 200) to require consent for the prosecution of conspiracies to commit offences regarding which consent to prosecution is necessary – Clause 33 in Division 5, Part 3 of the Bill. (Paragraph 23 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	
013458 – 013629	Admin Chairman	Proposed amendments to the Costs in Criminal Cases Ordinance (Cap. 492) to empower the Court of Appeal and Court of First Instance to award costs to the prosecutor or defendant on the other party's unsuccessful application for a certificate under the Hong Kong Court of Final Appeal Ordinance (Cap. 484) – Clauses 37 and 38 in Division 8, Part 3 of the Bill. (Paragraph 24 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	Bills Committee to invite views from the legal professional bodies.
013630 – 014136	Admin Chairman Mr KWONG Chi-kin	Proposed amendment to the Legal Practitioners Ordinance (Cap. 159) to clarify that the Council of the Law Society of Hong Kong may make rules to provide for the professional practice of any solicitor and to make indemnity rules in respect of any solicitor's practice, whether or not the solicitor is engaged in private practice – Clauses 177 and 178 in Division 2, Part 5 of the Bill. (Paragraph 25 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	
014137 – 014334	Admin Chairman	Proposed amendment to the Legal Practitioners Ordinance (Cap. 159) to include representatives of The Chinese University of Hong Kong in the Standing Committee on Legal Education and Training – Clause 176 in Division 1, Part 5 of the Bill.	

Time Marker	Speaker(s)	Subject(s)	Action required
		(Paragraph 26 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	
014335 – 014635	Admin Chairman	Proposed amendments to repeal provisions in Ordinances providing that a decision of the Court of Appeal on an appeal is final – Clauses 39 to 121 in Division 9, Part 3 of the Bill. (Paragraph 28 in Appendix I of LC Paper No. CB(2)1163/04-05(02)).	Admin to provide the judgment of the Court of Final Appeal (paragraph 3(i) of the minutes refers).
014636 – 015159	Chairman Admin	Invitation for concerned parties including the relevant policy Bureaux, the Judiciary and the two legal professional bodies to attend future meetings of the Bills Committee for discussion of relevant provisions of the Bill.	
015200 – 015616	Chairman Admin	Dates of the next two meetings of the Bills Committee.	

Council Business Division 2
Legislative Council Secretariat
22 April 2005