

立法會  
*Legislative Council*

LC Paper No. CB(2)1600/04-05  
(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 second meeting  
held on Tuesday, 26 April 2005 at 8:30 am  
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  
Department of Justice

Mr Michael SCOTT  
Senior Assistant Solicitor General  
Department of Justice

Mr Peter WONG  
Senior Assistant Solicitor General  
Department of Justice

Mr Michael LAM  
Senior Government Counsel  
Law Drafting Division  
Department of Justice

Ms Vicki LEE  
Senior Government Counsel  
Law Drafting Division  
Department of Justice

Ms Stella CHAN  
Government Counsel  
Legal Policy Division  
Department of Justice

Mr Leonard NG  
Government Counsel  
Legal Policy Division  
Department of Justice

Mr Sidney CHAN  
Assistant Director  
Administration Wing

Mr Mike BISHOP  
Assistant Director/Operations  
Independent Commission Against Corruption

Mr Gerry OSBORN  
Acting Assistant Director/Operations  
Independent Commission Against Corruption

Ms Ellen CHOY  
Principal Assistant Secretary (Civil Service) Appointments

Mr LEUNG Wing-yan, Jeff  
Principal Assistant Secretary for Health, Welfare and Food  
(Health)

Dr TAM Lai-fan, Gloria  
Assistant Director of Health (Health, Planning and  
Administration)  
Department of Health

Ms Vivian CHEUNG  
Assistant Secretary (Higher Education)1,  
Education and Manpower Bureau

Ms Priscilla TO  
Principle Assistant Secretary for Commerce, Industry and  
Technology (Commerce and Industry)  
Commerce, Industry and Technology Bureau

Miss Finnie QUEK  
Senior Solicitor (Registration)  
Intellectual Property Department

**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. Confirmation of minutes of meeting**  
(LC Paper No. CB(2)1339/04-05 – Minutes of meeting on 31 March 2005)

The minutes of the meeting held on 31 March 2005 were confirmed.

**II. Meeting with the Administration**

(LC Paper No. CB(2)1341/04-05(01) – Letter dated 19 April 2005 from the Administration in response to the issues raised at the meeting on 31 March 2005)

LC Paper No. CB(3)379/04-05 – The Bill

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

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

Proposed amendments to the Firearms and Ammunition Ordinance (Cap. 238) to make the possession of imitation firearms an indictable offence  
(Clause 34 of the Bill)

Admin 3. Deputy Solicitor General (DSG) said that the Administration would move a Committee Stage amendment (CSA) to withdraw the present amendments to section 20 of Cap. 238. He informed members that in a Court of Appeal case, it was held by the Court that section 20(1) of Cap. 238 was inconsistent with the Bill of Rights, as and when read with section 20(3)(c). The Administration had applied for leave to appeal to the Hong Kong Court of Final Appeal, and the application would be heard by the Appeal Committee on 26 April 2005. DSG said that a CSA to remove the proposed amendment in the Bill was considered necessary because the Administration would have to reconsider how section 20 should be amended in the light of the result of the appeal application.

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 of the Bill)

4. Ms Audrey EU and Ms Miriam LAU said that the proposal of the Administration to amend the Chinese text of section 4(28) of Cap. 228 to tally with the English text in order to remove the discrepancy in the meaning of the offence borne by the two texts was acceptable, as the meaning of the Chinese text was too narrow.

5. The Bills Committee requested the Administration to respond in writing to the issues raised at the meeting –

Proposed amendments to transfer power to determine appeals under the Medical Clinics Ordinance (Cap. 343) (MCO) 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) to advise whether the Administration had proposed to transfer the power of determination of other types of appeals from the CE in Council to the AAB, and, if so, the nature of these appeals;

Proposed amendments to enhance the powers and operational efficiency of the Legal Aid Services Council  
(Clause 29 in Division 2, Part 3 of the Bill)

(b) to explain the grounds for introducing the proposed new section 12(1) of the Legal Aid Services Council Ordinance (Cap. 489);

Proposed amendments to the Prevention of Bribery Ordinance (Cap. 201) (POBO) 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)

(c) to review the drafting of sections 17A(4) and 17A(5) of POBO, e.g. to delete the word “thereupon” or to substitute the word “thereupon” in section 17A(4) of POBO with “by reason thereof”. As members had pointed out, the word “thereupon”, which also appeared in section 17A(5), seemed to limit the carrying out of an arrest under section 17A(4) to that specific point in time when the person failed to comply with the notice under section 17A(1). After that point in time, the person could no longer be arrested;

(d) to advise whether the arrangements for surrender and return of travel documents under sections 17A and 17B were in line with those applicable to other enforcement agencies. As pointed out by the legal adviser to

the Panel on Administration of Justice and Legal Services at the meeting on 14 December 2004, a provision similar to section 17A(1) of POBO also existed in the Dangerous Drugs Ordinance;

- (e) to provide a sample of the written notice (bilingual versions) issued by a magistrate under section 17A(1) of POBO;

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)

- (f) to provide information on the other court case which had also commented on the conflict between the English and Chinese texts of section 4(28).

*(Post-meeting note: The Administration's written response was issued to the Bills Committee on 6 May 2005 vide LC Paper No. CB(2)1472/04-05(02))*

### **III. Date of next meeting**

- 6. The third meeting of the Bills Committee would be held on 9 May 2005 at 10:45 am.
- 7. The meeting ended at 10:30 am.

Council Business Division 2  
Legislative Council Secretariat  
18 May 2005

**Proceedings of the second meeting of the Bills Committee on  
Statute Law (Miscellaneous Provisions) Bill 2005  
on Tuesday, 26 April 2005 at 8:30 am  
in Conference Room A of the Legislative Council Building**

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
000000 - 002205	Chairman Admin Ms Audrey EU Mr KWONG Chi-kin	Paper provided by the Administration in response to the issues raised at the meeting on 31 March 2005 (LC Paper No. CB(2)1341/04-05(01)).  Clauses 6 and 7 of the Bill on proposed amendments to transfer power to determine appeals under the Medical Clinics Ordinance from the Chief Executive in Council to the Administrative Appeals Board  ((a) and (b) in LC Paper No. CB(2) 1341/04-05(01)).	Admin to respond to the issues raised (paragraph 5(a) of the minutes refers).
002206 - 002433	Chairman Admin	Clauses 8 to 10 of the Bill on proposed amendments to transfer the chairmanship of certain rules committee from the Chief Justice to the Chief Judge of the High Court.  ((c) in LC Paper No. CB(2) 1341/04-05(01)).	
002434 - 002700	Chairman Admin Mr KWONG Chi-kin	Clauses 16 to 26 of the Bill on proposed amendments to change the name of the Convocation of the Chinese University of Hong Kong from “校友會” to “校友評議會”.  ((d) in LC Paper No. CB(2) 1341/04-05(01)).	
002701 - 003121	Chairman Admin	Clause 34 of the Bill on proposed amendments to the Firearms and Ammunition Ordinance to make the possession of imitation firearms an indictable offence.  ((e) to (g) in LC Paper No. CB(2) 1341/04-05(01)).	Admin to provide the draft Committee Stage amendment to clause 34 in due course (paragraph 3 of the minutes refers).

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
003122 - 010657	Admin Chairman Ms Audrey EU Ms Miriam LAU Mr KWONG Chi-kin	Clauses 35 and 36 of the Bill on proposed amendments to the Prevention of Bribery Ordinance to prohibit a person who is required to surrender his travel document from leaving Hong Kong.  ((h) in LC Paper No. CB(2) 1341/04-05(01)).	Admin to respond to the issues raised by the Bills Committee (paragraphs 5(c) to (e) of the minutes refer).
010658 - 010926	Chairman Admin	Clauses 39 to 121 of the Bill on proposed amendments to repeal provisions in Ordinances providing that a decision of the Court of Appeal on an appeal is final.  ((i) in LC Paper No. CB(2) 1341/04-05(01)).	
010927 - 011952	Chairman Admin Ms Audrey EU Ms Miriam LAU	Clause 189 of the Bill on proposal to remove a discrepancy in meaning between the English and Chinese texts of section 4(28) of the Summary Offences Ordinance.  ((j) in LC Paper No. CB(2) 1341/04-05(01)).	Admin to provide the information requested by the Bills Committee (paragraph 5(f) of the minutes refers).
011953 - 012154	Chairman Admin	Clause by clause examination of the Bill  Clauses 1 and 2 of the Bill.	
012155 - 012656	Chairman Admin Ms Miriam LAU	Clause 3 of the Bill.	
012657 - 012846	Chairman Admin	Clause 4 of the Bill.	
012847 - 012928	Chairman Admin	Clause 5 of the Bill.	
012929 - 013704	Chairman Admin ALA5 Ms Audrey EU	Clause 6 of the Bill.	
013705 - 013812	Chairman Admin	Clause 7 of the Bill.	
013813 - 013958	Chairman Admin	Clauses 16 to 26 of the Bill.	
013959 - 014046	Admin	Clause 27 of the Bill.	
014047 - 014122	Chairman Admin	Clause 28 of the Bill.	

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
014123 - 014244	Chairman Admin Ms Audrey EU	Clause 29 of the Bill.	Admin to respond to the issue raised by the Bills Committee (paragraph 5(b) of the minutes refers).
014245 - 014441	Chairman Admin Ms Audrey EU	Clause 30 of the Bill.	
014442 - 015720	Chairman Admin Ms Audrey EU	Clause 31 of the Bill.	
015721 - 015904	ALA5 Chairman	Clause 6 of the Bill with reference to sections 27(1) and 27(3) of the Administrative Appeals Board Ordinance on extension of time limits for appeals to the Administrative Appeals Board.	
015905 - 020228	Admin Chairman	Clauses 181 and 182 of the Bill.	
020229 – 020259	Chairman	Dates of the next meeting of the Bills Committee	

Council Business Division 2  
Legislative Council Secretariat  
18 May 2005