

立法會
Legislative Council

Ref : CB2/BC/4/04

LC Paper No.CB(2)2407/04-05
(These minutes have been seen
by the Administration)

**Bills Committee on Statute Law
(Miscellaneous Provisions) Bill 2005**

**Minutes of the fifth meeting
held on Tuesday, 7 June 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

Members absent : Hon Albert HO Chun-yan
Hon KWONG Chi-kin

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 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

Ms Sally WONG
Deputy Judiciary Administrator (Development)
Judiciary Administration

Miss Vega WONG
Assistant Judiciary Administrator (Development)
Judiciary Administration

Mr Sidney CHAN
Assistant Director
Administration Wing

Mr Mike BISHOP
Principal Investigator/Special Duties
Independent Commission Against Corruption

Miss Winnie CHUI
Assistant Secretary for Security (Narcotics)
Security Bureau

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)1804/04-05 – Minutes of meeting on 9 May 2005)

The minutes of the meeting held on 9 May 2005 were confirmed.

II. Meeting with the Administration
(LC Paper No. CB(2)1806/04-05(01) – Letter dated 2 June 2005 from the Department of Justice to the Bar Association on the Bar Association's submission on the Bill

LC Paper Nos. CB(2)1806/04-05(02) and (03) – Letters dated 2 and 3 June 2005 from the Department of Justice to the Law Society on the Law Society's submission on the Bill

LC Paper No. CB(2)1806/04-05(04) – Letter from the Department of Justice on issues raised at the meeting on 24 May 2005 attaching proposed amendments to Division 7 of Part 3 of the Bill and other Committee Stage Amendments (CSAs)

LC Paper No. CB(2)1806/04-05(05) – Paper from the Security Bureau on draft proposed amendments to Division 7 of Part 3 of the Bill

LC Paper No. CB(2)1666/04-05(01) – Paper from the Judiciary Administration on proposed CSAs to the Bill

LC Paper No. CB(2)1806/04-05(06) – Paper from the Judiciary Administration on proposed amendments to transfer the chairmanship of the Criminal Procedure Rules Committee from the Chief Justice to the Chief Judge of the High Court

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**).
3. The Administration and the Judiciary Administration highlighted on the draft Committee Stage Amendments (CSAs) to the Bill (LC Paper Nos. CB(2)1806/04-05(04), 1806/04-05(06) and 1666/04-05(01)).

Proposed amendments to the Firearms and Ammunition Ordinance (Cap. 238) to make the possession of imitation firearms an indictable offence
(Clauses 34 and 198 of the Bill)

4. Deputy Solicitor General informed members that as explained to the Bills Committee at its meeting on 26 April 2005, the Administration would move a CSA to delete Division 6 in Part 3 of the Bill. Consequentially, clause 198 of the Bill would also be deleted.

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 of the Bill)

5. The Bills Committee noted that the Administration would introduce further amendments to POBO, including –
 - (a) amendment of section 17A to provide that a person who was the subject of a section 17A(1) notice should not leave Hong Kong before the expiry of a period of six months from the date of the notice, and the period could be extended for a further period of three months if a magistrate, on application of the Commissioner of the Independent

Commission Against Corruption, was satisfied that the investigation could not be completed before the date of such application;

- (b) adding a new section 17BA to allow a person on whom a notice under section 17A(1) was served to apply for permission to leave Hong Kong; and
- (c) amendment of section 17C to provide that any deposit made or recognizance entered into under the proposed section 17BA might be forfeited, if the person failed to comply with any condition imposed under the section.

6. Regarding the Dangerous Drugs Ordinance (Cap.134) (DDO), which contained provisions similar to sections 17A and 17B of POBO, the Administration advised the Bills Committee that it was prepared to introduce amendments to DDO to achieve the same purpose as the proposed amendments to POBO. The proposed amendments would seek to –

- (a) add a new provision to section 53A of DDO to provide that the subject of a section 53A(1) notice should not leave Hong Kong before the expiry of a period of three months from the date of the notice, which was in line with the period of which surrendered travel document could be detained. This period of three months might be further extended in line with the detention period of the travel documents; and
- (b) add a new provision to enable a subject of a section 53A(1) notice to apply for permission to leave Hong Kong. It was proposed that such application be made in the same manner as application for return of travel document under existing section 53B.

Proposed amendments to empower the Court of Appeal and Court of First Instance to award costs to the defendant and the prosecutor on the other party's unsuccessful application for a certificate under the Court of Final Appeal Ordinance
(Clauses 37 and 38 of the Bill)

7. The Bills Committee noted that the Administration agreed to add a “without merit” criterion for the award of costs in the proposed sections 9B and 13B of the Costs in Criminal Cases Ordinance (Cap. 492).

Amendments to transfer residual rule-making powers from the Chief Justice (CJ) to the Chief Judge of the High Court (CJHC)
(Division 5 of Part 2 of the Bill)

8. Deputy Judiciary Administrator (Development) explained that since the publication of the Bill, the Judiciary had noted that CJ had residual rule-making powers under the High Court Ordinance (HCO), the Criminal Procedure Ordinance (CPO) and the District Court Ordinance (DCO). The Judiciary considered that with the transfer of the chairmanship of certain Rules Committees and the rule-making and

related powers from CJ to CJHC as proposed in the Bill, further amendments should be introduced to transfer these residual rule-making powers from CJ to CJHC. The Judiciary therefore proposed to introduce CSAs to transfer CJ's rule-making powers under the relevant provisions of the Ordinances concerned, i.e. –

- (a) section 57 of HCO in respect of rules concerning deposit, etc. of moneys etc. in the High Court;
- (b) sections 79D and 79G of CPO in respect of special procedures for vulnerable witnesses;
- (c) section 79L of CPO in respect of taking evidence from witnesses outside Hong Kong by live television link; and
- (d) section 73 of DCO in respect of suitors' funds rules.

Clause by clause examination of the Bill

- 9. The Bills Committee completed clause by clause examination of the Bill.
- 10. The Administration was requested to provide a complete set of CSAs for the Bills Committee's consideration at the next meeting.

(Post-meeting note : The set of CSAs was issued to the Bills Committee on 8 June 2005 vide LC Paper No. CB(2)1857/04-05(01)).

III. Date of next meeting

- 11. The sixth meeting of the Bills Committee was scheduled for 9 June 2005 at 11:30 am.
- 12. The meeting ended at 9:25 am.

Council Business Division 2
Legislative Council Secretariat
1 August 2005

**Proceedings of the fifth meeting of the Bills Committee on
Statute Law (Miscellaneous Provisions) Bill 2005
on Tuesday, 7 June 2005 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000000 - 000759	Chairman Ms Audrey EU Ms Miriam LAU	Confirmation of minutes of the meeting held on 9 May 2005. Scheduling of the next meeting of the Bills Committee.	
000800 - 001904	Admin Chairman	Draft Committee Stage Amendments (CSAs) to the Bill in relation to – (a) proposed amendments to the Firearms and Ammunition Ordinance (clauses 34 and 198 of the Bill); (b) proposed amendments to the Prevention of Bribery Ordinance (POBO) (clauses 35 and 36 of the Bill); and (c) introduction of a “without merit” criterion for the award of costs in the proposed sections 9B and 13B of the Costs in Criminal Cases Ordinance (clauses 37 and 38 of the Bill).	
001905 - 002415	Judiciary Admin Chairman Admin Clerk	Proposed amendments to transfer residual rule-making power of the Chief Justice under the High Court Ordinance, the Criminal Procedure Ordinance and the District Court Ordinance to the Chief Judge of the High Court (Division 5 of Part 2 of the Bill).	
002416 - 002944	Admin Chairman	Investigation of persons suspected to have committed a crime under the Dangerous Drugs Ordinance (DDO). Proposed amendments to DDO to achieve the same purpose as the amendments to POBO, by specifying that the subject of a section 53A(1) notice should not leave Hong Kong	

Time Marker	Speaker(s)	Subject(s)	Action required
		within a specified period, and the conditions under which the person could apply for permission to leave Hong Kong.	
002945 - 004732	Chairman Ms Miriam LAU Admin	Clause by clause examination of the Bill. Clauses 179 – 224.	
004733 – 004850	Chairman	CSAs for consideration at the next meeting.	Admin to provide a full set of CSAs on 8 June 2005.

Council Business Division 2
Legislative Council Secretariat
1 August 2005