

立法會
Legislative Council

Ref : CB2/BC/12/04

LC Paper No. CB(2) 394/05-06
(These minutes have been seen by
the Administration)

**Bills Committee on
Marriage (Introduction of Civil Celebrants of Marriages and
General Amendments) Bill**

**Minutes of the seventh meeting
held on Tuesday, 25 October 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 Andrew CHENG Kar-foo
Hon Audrey EU Yuet-mee, SC, JP
Hon LI Kwok-ying, MH

Member absent : Hon Albert Jinghan CHENG

Public Officers attending : Mr Michael WONG
Deputy Secretary for Security

Mr Alan CHU
Principal Assistant Secretary for Security

Ms Anne TENG
Assistant Secretary for Security

Mr Gilbert MO
Deputy Law Draftsman (Bilingual Drafting and Administration)
Department of Justice

Mr TSOI Hon-kuen
Assistant Director (Personal Documentation)
Immigration Department

Mr SHAM Hi-keung
Principal Immigration Officer (Documents)
Immigration Department

Mr CHOW Kun-wah
Assistant Principal Immigration Officer
(Births, Deaths and Marriage Registration)
Immigration Department

Clerk in attendance : Mrs Constance LI
Chief Council Secretary (2)5

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Miss Lolita SHEK
Senior Council Secretary (2)7

I. Confirmation of minutes of meeting
[LC Paper No. CB(2) 107/05-06]

The minutes of meeting on 4 October 2005 were confirmed.

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

II. Meeting with the Administration

Administration's response to outstanding issues
[LC Paper Nos. CB(2) 108/05-06(01) and (02)]

3. Members noted the Administration's paper providing a summary of offences in the Marriage Ordinance (Cap. 181) and the Bill as requested by Mr Andrew CHENG at the last meeting on 4 October 2005.

- Admin 4. The Administration was requested to provide for members' reference a draft Code of Practice for civil celebrants in due course.

Draft Committee Stage amendments proposed by the Administration

[LC Paper Nos. CB(2) 108/05-06(03), CB(2) 1984/04-05(03) and CB(2) 2655/04-05(04)]

5. The Bills Committee completed examination of the English version of the Committee Stage amendments (CSAs) proposed by the Administration and the revised amendments provided in LC Paper No. CB(2) 108/05-06(03).

6. Members noted the advice from Senior Assistant Legal Adviser 1 (SALA1) that the effect of the drafting in the draft CSAs which sought to revise the penalty of the offences in sections 29, 30, 33 and 39 of the Principal Ordinance would make the relevant offences only triable summarily in magistrate courts, and not either summarily or upon indictment as in the existing sections. The Chairman expressed concern that the Administration had not drawn the Bills Committee's attention to the implications of the CSAs concerned. The Administration clarified that the intention was to draw the Bills Committee's attention to those implications when the new clause 17A introducing a new section 34A on time limit for prosecution was examined. The Administration further explained that it was appropriate for the offences in those sections with the proposed penalty to be tried in magistrate courts. Some other offences in the Marriage Ordinance were only triable summarily, and the draft CSAs concerned were consistent with the existing policy.

7. Members considered the proposed amendment to section 29 under clause 50 in the Bill also had the effect of changing the nature of the offence from knowing that written consent had not been obtained to knowing that no written consent had been produced.

8. The Chairman expressed strong dissatisfaction that the Administration had not explicitly explained the implications of the amendments proposed in the Bill and the CSAs mentioned in paragraphs 6 and 7 above to the Bills Committee.

Admin 9. At the request of the Bills Committee, the Administration undertook to further amend section 29 so as to retain the original intention that a written consent had to be "obtained" and not "produced" for the purpose of this section.

SALA1 10. The Bills Committee instructed SALA1 to examine the Chinese version of the draft CSAs and inform members of any problems identified.

III. Any Other Business

Way forward

11. The Bills Committee agreed that no further meeting would be held unless any member or SALA1 had further comments or queries on the Bill or the draft CSAs. The Bills Committee also agreed that subject to further comments from members and SALA1, the Bills Committee would provide a report for the House Committee meeting on 4 November 2005.

12. There being no other business, the meeting ended at 10:30 am.

Council Business Division 2
Legislative Council Secretariat
15 November 2005

**Proceedings of the meeting of the Bills Committee on
Marriage (Introduction of Civil Celebrants of Marriages and
General Amendments) Bill
on Tuesday, 25 October 2005 at 8:30 am
in Conference Room A of the Legislative Council Building**

| Time Marker | Speaker(s) | Subject(s) | Action required |
|--------------------|---|--|------------------------|
| 1022-1305 | Chairman Admin | Summary of offences in the Marriage Ordinance and the Bill provided by the Administration [LC Paper No. CB(2)108/05-06(02)] | |
| 1306-2258 | Admin Chairman Miriam LAU Audrey EU | Draft Committee Stage amendment (CSA) to clause 51 | |
| 2259-2426 | Chairman Admin | Draft CSA to clause 52 | |
| 2427-3143 | Admin Chairman SALA1 Miriam LAU Audrey EU | New CSA to amend section 33 in the Marriage Ordinance The appropriateness for using the word “pretends” in section 33 | |
| 3144-4203 | Chairman SALA1 Admin Miriam LAU | SALA1’s advice that the effect of the draft CSAs to amend section 33 and certain other sections was that the offences concerned would only be triable summarily, and not either summarily or upon indictment as in the existing sections | |

| Time Marker | Speaker(s) | Subject(s) | Action required |
|--------------------|---|---|------------------------|
| | | The Chairman requested that the Administration should inform the Bills Committee of the policy intent and implications of the proposed amendments | |
| 4204-4447 | Admin Chairman SALA1 | CSAs to clauses 57 and 58 | |
| 4448-4707 | LI Kwok-ying Chairman Admin | The new Schedule 5 | |
| 4708-4838 | Chairman SALA1 | The Chairman expressed dissatisfaction that the Administration had not explicitly explained to the Bills Committee the implications of the amendments proposed for sections 29, 30, 33 and 39 | |
| 4839-010538 | Admin Chairman Miriam LAU | Amendments to the draft CSAs proposed by the Administration to clauses 3 and 4 [LC Paper No. CB(2) 108/05-06(03)] | |
| 010539-013436 | Chairman Admin SALA1 Miriam LAU Audrey EU | Amendments to the draft CSA to clause 13 Effect of the amendments to section 27(2) on the circumstances under which a marriage would be null and void under this section | |
| 013437-013825 | Admin Chairman | Amendments to the draft CSAs to clauses 16 and 17. | |

| Time Marker | Speaker(s) | Subject(s) | Action required |
|---------------|---|--|--|
| | | The Chairman expressed dissatisfaction that the Administration had not explicitly explained to the Bills Committee the implications of the amendments proposed for sections 29, 30, 33 and 39 | |
| 013826-015703 | Admin Chairman Miriam LAU SALA1 | Amendments to the draft CSAs to clauses 24, 27 and 35 The original intention in section 29 that a written consent had to be “obtained” and not “produced” for the purpose of this section | Admin to further amend section 29 (paragraph 9 of the minutes refers) |
| 015704-020216 | Chairman Admin SALA1 Clerk Miriam LAU | Way forward The Bills Committee would provide a report for the House Committee meeting on 4 November 2005 | SALA to examine the Chinese version of the draft CSAs (paragraph 10 of the minutes refers) Admin to provide draft Code of Practice for civil celebrants (paragraph 4 of the minutes refers) |