

立法會  
*Legislative Council*

Ref : CB2/SS/3/04

LC Paper No. CB(2)2200/04-05  
(These minutes have been seen by  
the Administration)

**Subcommittee on Subsidiary Legislation Relating to Consular Matters**

**Minutes of the second meeting  
held on Tuesday, 31 May 2005 at 8:30 am  
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)  
Hon James TO Kun-sun  
Hon LI Kwok-ying, MH
- Public Officers attending** : Miss Eliza LEE  
Deputy Director of Administration
- Ms Lena CHI  
Deputy Law Officer (International Law)
- Mr David LEUNG  
Assistant Director of Administration
- Mr Davis HUI  
Deputy Director of Protocol
- Mr Lawrence PENG  
Senior Assistant Law Draftsman
- Ms Francoise LAM  
Senior Government Counsel
- 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

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Action

**I. Meeting with the Administration**

(CSO/ADM CR/3/2071/97(05) – Legislative Council Brief

LC Paper No. CB(2)1496/04-05(03) – Marked-up copies for L.Ns. 53 and 54

LC Paper No. CB(2)1497/04-05(01) – Vienna Convention on Consular Relations

LC Paper No. CB(2)1497/04-05(02) – Vienna Convention on Diplomatic Relations

LC Paper No. CB(2)1497/04-05(03) – Consular Relations Ordinance

LC Paper No. CB(2)1497/04-05(04) – Agreement on Consular Relations Between the People's Republic of China and Australia

LC Paper No. CB(2)1497/04-05(07) – Consular Convention Between the Socialist Republic of Vietnam And the People's Republic of China

LC Paper No. CB(2)1697/04-05(01) – Paper provided by the Administration in response to issues raised at the meeting on 12 May 2005

LC Paper No. CB(2)1697/04-05(02) – Extract from the Administration's response to the issues raised by the Subcommittee on Subsidiary Legislation Relating to Consular Matters gazetted on 9 July 2003 relating to consular functions of safeguarding the interests of deceased nationals in cases of succession mortis causa in the receiving State

LC Paper No. CB(2)1697/04-05(03) – Copy of letter dated 8 December 2003 from the Administration to the Subcommittee on Subsidiary Legislation Relating to Consular Matters gazetted on 9 July 2003 on notification to the sending State of death of nationals in the receiving State)

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

Clause by clause examination of the subsidiary legislation

2. The Subcommittee completed clause by clause examination of –

(a) Administration of Estates by Consular Officers Ordinance (Amendment of Schedule) Order 2005 (L.N. 53);

(b) Consular Conventions (Application of Section 3) Order 2005 (L.N. 54);

- (c) Consular Relations (Additional Privileges and Immunities) (Vietnam) Order (L.N. 55);
- (d) Administration of Estates by Consular Officers Ordinance (Amendment of Schedule) (No. 2) Order 2005 (L.N. 56); and
- (e) Consular Conventions (Application of Section 3) (No. 2) Order 2005 (L.N. 57).

3. The Administration was requested to respond/give consideration to the following issues raised by Mr James TO –

- (a) in relation to inviolability of consular premises and residences of consular officers, to provide the internal guidelines governing the actions to be taken by law enforcement agencies in Hong Kong under special or emergency situations which necessitated entry into the premises or residences;
- (b) to consider reviewing the scope of the powers of consular officers in relation to property in Hong Kong of deceased persons under section 3 of the Consular Conventions Ordinance (Cap. 267). Mr TO pointed out that an executor who was resident in Hong Kong might not be able or might not want to be present in Hong Kong to dispose of the property of the deceased; and
- (c) the Government of the Hong Kong Special Administrative Region should reflect to the Government of the People's Republic of China that caution should be exercised in concluding international agreements on grant of additional privileges and immunities to consular officers of certain countries.

*(Post-meeting note : The Administration's response was issued to the Subcommittee on 5 July 2005 vide LC Paper No. CB(2)2184/04-05(01)).*

#### Report to the House Committee

4. The Subcommittee agreed that the Chairman should make a verbal report on the deliberation of the Subcommittee to the House Committee at its meeting on 3 June 2005, followed by a written report to the House Committee on 10 June 2005.

5. The meeting ended at 9:15 am.

**Proceedings of the second meeting of the Subcommittee on  
Subsidiary Legislation Relating to Consular Matters  
on Tuesday, 31 May 2005 at 8:30 am  
in Conference Room B of the Legislative Council Building**

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
000000 – 000429	Chairman Admin	Admin's written response to issues raised at the first meeting on 12 May 2005 (LC Paper No. CB(2)1697/04-05(01)).	
000430 – 001520	Mr James TO Admin Chairman Mr LI Kwok-ying	Meaning of "residences of consular officers" and inviolability of consular premises and residences of consular officers.  Actions of law enforcement agencies of Hong Kong under special or emergency situations which necessitate entry into consular premises and residences of consular officers.	Admin to provide the requested information in writing (paragraph 3(a) of the minutes refers).
001521 – 002127	Chairman Admin Mr James TO	Continuation of clause by clause examination of the subsidiary legislation  Administration of Estates by Consular Officers Ordinance (Amendment of Schedule) Order 2005 (L.N.53).	
002128 – 003220	Chairman Admin Mr James TO	Consular Conventions (Application of Section 3) Order 2005 (L.N.54).  Scope of the powers of consular officers in relation to property in Hong Kong of deceased persons under section 3 of the Consular Conventions Ordinance (Cap. 267).	Admin to consider the issue raised (paragraph 3(b) of the minutes refers).
003221 – 003522	Chairman Admin Mr James TO	Consular Relations (Additional Privileges and Immunities) (Vietnam) Order (L.N.55).  Factors to be considered in concluding international agreements on grant of additional consular privileges and immunities, including conduct of consular officers.	Admin to consider the issue raised (paragraph 3(c) of the minutes refers).
003523 – 003943	Chairman Admin Mr James TO	Administration of Estates by Consular Officers Ordinance (Amendment of Schedule) (No. 2) Order 2005 (L.N. 56)  Consular Conventions (Application of Section 3) (No. 2) Order 2005 (L.N. 57)  Provisions in the Vienna Convention on	

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		Consular Relations on size of consular staff.	
003944 – 003951	Chairman	Report to the House Committee on the deliberation of the Subcommittee.	

Council Business Division 2  
Legislative Council Secretariat  
6 July 2005