

**立法會**  
**Legislative Council**

Ref : CB2/BC/4/06

LC Paper No. CB(2)510/07-08  
(These minutes have been seen  
by the Administration)

**Bills Committee on Domicile Bill**

**Minutes of the fifth meeting**  
**held on Tuesday, 16 October 2007, at 10:45 am**  
**in Conference Room B of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Audrey EU Yuet-mee, SC, JP
- Members Absent** : Hon Martin LEE Chu-ming, SC, JP  
Hon Jasper TSANG Yok-sing, GBS, JP
- Public Officers attending** : Item III  
Mr Michael SCOTT  
Senior Assistant Solicitor General  
  
Ms Kitty FUNG  
Senior Government Counsel  
  
Miss Betty CHEUNG  
Senior Government Counsel  
  
Mr Byron LEUNG  
Senior Government Counsel
- Clerk in attendance** : Mrs Percy MA  
Chief Council Secretary (2)3
- Staff in attendance** : Mr Arthur CHEUNG  
Senior Assistant Legal Adviser 2  
  
Mrs Eleanor CHOW  
Senior Council Secretary (2)4

Action

**I. Meeting with the Administration**  
(LC Paper No. CB(3)335/06-07 – The Bill

LC Paper No. CB(2)1314/06-07(03) - Marked-up copy of clauses 14 and 15 of the Bill

Law Reform Commission's Report on "Rules for Determining Domicile" published in April 2005

LS69/06-07 - List of legal and drafting issues on the Domicile Bill provided by Senior Assistant Legal Adviser

LC Paper No. CB(2)2279/06-07(02) - Administration's response to issues raised by Senior Assistant Legal Adviser at LS69/06-07 at the meeting on 30 April 2007)

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

2. The Administration was requested to review the drafting of clauses 4, 8(1), 10, 12 and 13 having regard to members' views as detailed in the index of proceedings attached at **Annex**.

**II. Any other business**

3. The Chairman suggested and members agreed that the Bills Committee would proceed to clause-by-clause examination of the Bill at the next meeting after receiving the proposed amendments from the Administration. The Clerk would liaise with the Administration on the date of the next meeting after the meeting.

*(Post-meeting note: With the concurrence of the Chairman, the next meeting will be held on 10 December 2007 at 10:45 am.)*

4. The meeting ended at 11:55 am.

**Proceedings of the fifth meeting of the  
Bills Committee on Domicile Bill  
on Tuesday, 16 October 2007, at 10:45 am  
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000756-001006	Chairman	Continued discussion on the Administration's response to the issues raised by SALA2 at the meeting on 30 April 2007 (LC Paper Nos. LS69/06-07 and CB(2)2279/06-07(02))	
001007-001736	Admin Chairman SALA2 Ms Miriam LAU Ms Audrey EU	Concerns raised by SALA2 and the Administration's reply on clause 6 (Acquiring a domicile in Hong Kong) (paragraph 8 of LC Paper No. CB(2)2279/06-07(02))	
001737-004428	SALA2 Chairman Admin Ms Miriam LAU Ms Audrey EU	Concerns raised by SALA2 and the Administration's reply on clause 8 (Domicile of adults under disability) (paragraphs 9-11 of LC Paper No. CB(2)2279/06-07(02))  The Administration was requested to review the drafting of clause 8(1) to include the requirement that the court should take into account all relevant factors including the intention of the adult concerned, as in the case of determining the domicile of children under clause 4(2)	<b>Admin to follow up</b>
004429-005422	Chairman SALA2 Admin Ms Miriam LAU	Concerns raised by SALA2 and the Administration's reply on clause 10 (Domicile in countries comprising 2 or more territories) (paragraphs 12-13 of LC Paper No. CB(2)2279/06-07(02))  Discussion on the purpose of clause 10, the impact of deleting the clause and its relationship with clause 5  Clarification by the Administration that -  (a) clause 10 would apply where a person lived in a country comprising 2 or more territories without deciding in which territory of that country to settle indefinitely;  (b) clause 10 would only apply if a person's domicile cannot be	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>determined by applying the other provisions of the Bill (e.g. clause 5); and</p> <p>(c) the closest connection test would be adopted for determining domicile under clause 10</p> <p>The Administration was requested to consider members' views that the requirement that the court should take into account all relevant factors including the intention of the person, as in the case of determining the domicile of children under clause 4(2), and such a requirement should be incorporated in the Bill as a general provision</p>	<p><b>Admin to follow up</b></p>
005423-005708	<p>SALA2 Chairman Ms Miriam LAU</p>	<p>Concerns raised by SALA2 and the Administration's reply on clause 11 (Standard of proof) (paragraph 14 of LC Paper No. CB(2)2279/06-07(02))</p>	
005707-010431	<p>Chairman SALA2 Admin</p>	<p>Concerns raised by SALA2 and the Administration's reply on clauses 12 and 13 regarding domicile before, on or after commencement date of the Bill (paragraphs 15-16 of LC Paper No. CB(2)2279/06-07(02))</p> <p>The Administration was requested to consider members' suggestion that the application of clause 12 should be subject to clause 13(1) in order to remove doubt on whether clause 12 or 13 should apply in the event that a child became an adult on the commencement date of the Domicile Ordinance to be passed</p>	<p><b>Admin to follow up</b></p>
010432-010914	<p>Chairman SALA2 Admin</p>	<p>Date of next meeting to be decided after the meeting</p>	