

**立法會**  
**Legislative Council**

Ref : CB2/BC/6/06

LC Paper No. CB(2)118/07-08  
(These minutes have been seen  
by the Administration)

**Bills Committee on Mainland Judgments (Reciprocal Enforcement) Bill**

**Minutes of the meeting**  
**held on Monday, 8 October 2007, at 8:30 am**  
**in Conference Room B of the Legislative Council Building**

**Members present** : Hon Margaret NG (Chairman)  
Hon Miriam LAU Kin-ye, GBS, JP (Deputy Chairman)  
Hon Martin LEE Chu-ming, SC, JP  
Hon James TO Kun-sun  
Hon Audrey EU Yuet-mee, SC, JP  
Hon LI Kwok-ying, MH, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon Ronny TONG Ka-wah, SC

**Public Officers attending** : Item II  
  
Mr Frank POON  
Deputy Solicitor General (Acting)  
  
Miss Michelle TSANG  
Senior Assistant Solicitor General  
  
Mr Paul TSANG  
Senior Assistant Solicitor General (Acting)  
  
Ms Marie SIU  
Senior Government Counsel  
  
Ms Peggy AU YEUNG  
Senior Government Counsel (Ag)  
  
Miss Carmen KONG  
Assistant Secretary (Administration) 3

**Clerk in attendance** : Mrs Percy MA  
Chief Council Secretary (2)3

**Staff in attendance** : Mr KAU Kin-wah  
Assistant Legal Adviser 6  
  
Mrs Eleanor CHOW  
Senior Council Secretary (2)4

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**I. Meeting with the Administration**

(LC Paper No. CB(2)2767/06-07(01) – Administration's response to the issues raised at the meetings on 22 June, 29 June and 16 July 2007

LC Paper No. CB(2)2767/06-07(02) – A marked-up version of the Bill setting out the amendments proposed by the Administration

LC Paper No. CB(2)2767/06-07(03) – A check list of follow-up actions required of the Administration (position as at 28 September 2007)

Annex B to LegCo Brief – "Arrangement on Reciprocal of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region Pursuant to Choice of Court Agreements between Parties Concerned" signed between the Mainland and the Hong Kong Special Administrative Region (HKSAR) on 14 July 2006 (the Arrangement)

LC Paper No. CB(3)379/06-07 – The Bill

LC Paper No. CB(2)1708/06-07(01) – Marked-up copy of the consequential amendments to the Rules of the High Court, Foreign Judgments (Restriction on Recognition and Enforcement) Ordinance, and the Rules of the District Court

Annex I to LC Paper No. CB(2)1641/06-07(01) – A table showing the clause in the Bill which correspond with the Articles of the Arrangement

LC Paper No. CB(2)1698/06-07(01) – A memorandum of points of concern provided by Assistant Legal Adviser)

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

2. The Administration was requested to -

(a) in relation to the enactment of local legislation to give effect to an international agreement, provide information and give examples on the following -

(i) cases where reference was made to international agreements in the Long Title of the implementing legislation;

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- (ii) cases where the texts of international agreements were incorporated into the implementing legislation as a schedule;
- (b) reconsider members' proposal that reference to the Arrangement should be made in the Long Title of the Bill and that the Arrangement be set out in a schedule to the Bill for ease of reference;
- (c) consider members' views on the Proposed Order 71A Rule 3, consult the Privacy Commissioner and the business sector, and revert to the Bills Committee; and
- (d) respond to Assistant Legal Adviser 6's comments on proposed clauses 3(1), 3(2), 5(2)(a)(iv)(C), 5(2)(a)(iv)(D) and 6(1)(d) as detailed in the index of proceedings attached at **Annex**.

**II. Date of next meeting**

- 3. The Bills Committee agreed that the next meeting would be held on 24 October 2007 at 8:30 am.
- 4. The meeting ended at 10:22 am.

Council Business Division 2  
Legislative Council Secretariat  
22 October 2007

**Proceedings of the 10th meeting of the  
Bills Committee on Mainland Judgments (Reciprocal Enforcement) Bill  
on Monday, 8 October 2007, at 8:30 am  
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000000 - 000319	Chairman	Opening remarks	
000320 - 000902	Administration Chairman	Briefing by the Administration on its response to the issues raised at the meetings on 22 June, 29 June and 16 July 2007 (LC Paper No. CB(2) 2767/06-07(01))	
000903 - 002749	Ms Audrey EU Administration Chairman Mr Martin LEE Mr James TO ALA6	<p><u>Long Title of the Bill</u> (paras 1 and 2 of LC Paper No. CB(2) 2767/06-07(01))</p> <p>In relation to the enactment of local legislation to give effect to an international agreement, the Administration was requested to -</p> <p>(a) provide information and give examples on the following -</p> <p style="padding-left: 20px;">(i) cases where reference was made to international agreements in the Long Title of the implementing legislation;</p> <p style="padding-left: 20px;">(ii) cases where the texts of international agreements were incorporated into the implementing legislation as a schedule; and</p> <p>(b) reconsider members' proposal that reference to the Arrangement should be made in the Long Title of the Bill and that the Arrangement be set out in a schedule to the Bill for ease of reference</p> <p>The Chairman expressed the following views -</p> <p>(a) reciprocal enforcement of arbitral awards between the Mainland and the HKSAR was implemented by way of amendments to the Arbitration Ordinance. However, this Bill was a new bill; and</p> <p>(b) reference should be made to the approach of implementing international agreements in local legislation</p>	<b>Admin to follow up</b>

Time Marker	Speaker(s)	Subject(s)	Action required
002750 - 003629	Chairman Administration Mr Martin LEE Mr LI Kwok-ying Mr James TO ALA6	<p><u>Use of the word "or" in "civil or commercial matters"</u> (paras 3 to 5 of LC Paper No. CB(2) 2767/06-07(01))</p> <p><u>Clause 2(1) : Definition of "Recognized Basic People's Court"</u> (paras 6 and 7 of LC Paper No. CB(2) 2767/06-07(01))</p> <p><u>Clause 2(1) : Definition of "Mainland"</u> (paras 8 to 10 of LC Paper No. CB(2) 2767/06-07(01))</p>	
003630 - 004759	Chairman Administration Mr James TO Mr Ronny TONG ALA6	<p><u>The effect of Clause 2(2)</u> (paras 11 to 14 of LC Paper No. CB(2) 2767/06-07(01))</p> <p><u>Clause 3 of the Bill</u> (paras 15 to 17 of LC Paper No. CB(2) 2767/06-07(01))</p>	
004800 - 005942	Chairman Administration	<p><u>Clause 5(2)(b) : the expression "pursuant to"</u> (para 18 of LC Paper No. CB(2) 2767/06-07(01))</p> <p><u>Clause 6(1)(d) : The "unless" clause</u> (paras 19 and 20 of LC Paper No. CB(2) 2767/06-07(01))</p> <p><u>Paragraph 3 of Schedule 2</u> (paras 21 to 24 of LC Paper No. CB(2) 2767/06-07(01))</p> <p><u>Proposed Order 71A Rule 3</u> (paras 26 to 29 of LC Paper No. CB(2) 2767/06-07(01))</p>	
005943 - 013839	Chairman Administration Ms Miriam LAU Ms Audrey EU Mr Andrew LEUNG Mr Ronny TONG ALA6	<p>Discussion of members on the concern of the Privacy Commissioner about the risk of exposing the personal data of the judgment creditor by requiring him to exhibit a copy of his identity document in support of the affidavit for application for registration of Mainland judgments under the proposed Order 71A, Rule 3</p> <p>Members expressed the following views -</p> <p>(a) personal data of the judgment creditor should not be an issue of concern if he was a party to the legal proceedings in Hong Kong;</p> <p>(b) the judgment debtor should have the right to know and verify the identity of the judgment creditor;</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>(c) the Proposed Order was intended to implement Article 6(4) of the Arrangement which referred to the requirement for authenticated copy of identity document of the judgment creditor; and</p> <p>(d) the evidential requirements to support applications for enforcement of Mainland and Hong Kong judgments under the Arrangement should be similar</p> <p>The Administration was requested to consider members' views on the Proposed Order, consult the Privacy Commissioner and the business sector, and revert to the Bills Committee</p>	<b>Admin to follow up</b>
013840 - 014848	Chairman Administration	<p><u>Grounds to set aside registration under Clause 18</u> (Annex A to LC Paper No. CB(2) 2767/06-07(01))</p>	
014849 - 015129	ALA6 Chairman	<p>On the proposed amendments in the marked-up version of the Bill provided by the Administration (LC Paper No. CB(2) 2767/06-07(02)), ALA requested the Administration to -</p> <p>(a) <u>proposed clause 3(1) and (2)</u> - clarify how the requirement that the court(s) specified in the "choice of court agreement" should be to the exclusion of courts of other jurisdictions was to be met in practice;</p> <p>(b) <u>proposed clause 5(2)(a)(iv)</u> - consider whether the proposed clause 5(2)(a)(iv)(C) and (D) were necessary as proposed clause 5(2)(a)(iv)(A) and (B) should have covered all scenarios; and</p> <p>(c) <u>proposed clause 6(1)(d)</u> - review the drafting of the proposed clause as the definition of "original court" in clause 2 was not appropriate in the context of the proposed clause</p>	<b>Admin to follow up</b>
015130 - 015303	Chairman	Date of next meeting	