

立法會
Legislative Council

LC Paper No. CB(2)2186/06-07
(These minutes have been
seen by the Administration)

Ref : CB2/BC/8/06

Bills Committee on Statute Law
(Miscellaneous Provisions) Bill 2007

Minutes of the second meeting
held on Thursday, 7 June 2007, at 8:30 am
in Conference Room A of the Legislative Council Building

Members present : Hon Margaret NG (Chairman)
Hon Emily LAU Wai-hing, JP
Hon LI Kwok-ying, MH, JP
Hon Ronny TONG Ka-wah, SC

Members absent : Hon James TO Kun-sun
Hon LEUNG Kwok-hung

Public Officers attending : Department of Justice

Mr Ian WINGFIELD
Solicitor General
Legal Policy Division

Mr Michael SCOTT
Senior Assistant Solicitor General
Legal Policy Division

Mr Llewellyn MUI
Senior Assistant Solicitor General (Ag.)

Ms Rayne CHAI
Senior Government Counsel
Law Drafting Division

Ms Rosa PANG
Senior Government Counsel
Law Drafting Division

Ms Stella CHAN
Government Counsel
Legal Policy Division

Ms Selene TSOI
Principal Assistant Secretary for Financial Services and the
Treasury (Financial Services)

Mrs Apollonia LIU
Principal Assistant Secretary for Security

Miss Rosalind CHEUNG
Assistant Secretary for Security

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 4

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Mr Chris LAI
Senior Council Secretary (2) 7

Miss Maggie CHIU
Legislative Assistant (2) 4

Action

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

I. Meeting with the Administration

[Legislative Council Brief, the Bill, LC Paper Nos. LS64/06-07, CB(2)1759/06-07(01) to (02), CB(2)1975/06-07(01) to (02) and CB(2)2034/06-07(01) to (05)]

Admin

2. The Administration was requested to provide a written response on the following issues raised at the meeting –

Action

Proposed amendments to the Bankruptcy Ordinance (Cap. 6)
(Part 2 of the Bill)

- (a) (i) to re-consider the proposed deletion of section 30A(10)(b)(i) of the Bankruptcy Ordinance (Cap. 6); and
- (ii) to consider whether section 30A(10)(b)(ii) should be amended in light of the proposed deletion of section 30A(10)(b)(i) of the Bankruptcy Ordinance;

Proposed amendments to the Public Order Ordinance (Cap. 245) and Societies Ordinance (Cap. 151)
(Part 3 of the Bill)

- (b) to advise on the concept of "public order" and "public order (*ordre public*)" and the consequences if the references to "*ordre public*" were deleted from the Public Order Ordinance, e.g. whether the rights to assembly and demonstration currently enjoyed by the people of Hong Kong would be restricted or enlarged; and
- (c) to advise on the Police's operational procedures on the processing of notifications of public meetings and public processions under the Public Order Ordinance before and after the handing down of the judgment by the Court of Final Appeal (CFA) on the *Leung Kwok Hung and Others v HKSAR* case in 2005, and highlight the changes made thereto as a result of the CFA judgment.

3. Members expressed concern that the Administration had simplified the CFA judgment into a matter of merely replacing the term "public order (*ordre public*)" in the Public Order Ordinance with the term "public order". Members considered that the Administration should take into account the CFA judgment and examine how the provisions could be improved so that the Police and members of the public would be aware of the precise scope of the Police's power.

II. Date of next meeting

4. The Chairman reminded members that the next meeting of the Bills Committee would be held on 16 June 2007 at 9:30 am to receive views from deputations on the proposed amendments.

Action

5. There being no other business, the meeting ended at 10:34 am.

Council Business Division 2
Legislative Council Secretariat
18 June 2007

**Proceedings of the second meeting of the
Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2007
on Thursday, 7 June 2007, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
000000 - 000839	Chairman	Meeting arrangements	
000840 - 001419	Chairman ALA2 Admin	Briefing by the Administration on the proposed amendments to the Bankruptcy Ordinance (Cap. 6) (Part 2 of the Bill)	
001420 - 004259	Chairman Mr Ronny TONG Mr LI Kwok-ying Ms Emily LAU Admin	Discussion on the Chairman's concern whether – (a) the amendments proposed to the Bankruptcy Ordinance (Cap. 6) would conform with the Court of Final Appeal (CFA)'s judgment; and (b) the Administration should examine how the provisions could be improved instead of repealing the section 30A(10)(b)(i) Discussion on the following issues raised by Mr Ronny TONG and Mr LI Kwok-ying – (a) the impact of deleting section 30A(10)(b)(i) of Cap. 6 on the period for a bankrupt to be qualified for discharge from bankruptcy; (b) the mechanism for a bankrupt to notify the trustee of his/her itinerary when leaving Hong Kong after the proposed amendment came into effect; and (c) whether section 30A(10)(b)(ii) should be amended in light of the proposed deletion of section 30A(10)(b)(i).	Admin to consider (para. 2(a) of the minutes)
004300 - 004706	Chairman Admin	Briefing by the Administration on its response to the points raised by members at the last meeting on 11 May 2007 regarding the proposed amendments to the Public Order Ordinance (Cap. 245) (POO) and the Societies Ordinance (Cap. 151) (SO) (Part 3 of the Bill) (LC Paper No. CB(2)2034/06-07(01))	
004707 - 012743	Chairman Mr Ronny TONG Ms Emily LAU Admin	Discussion on Mr Ronny TONG's concern – (a) how the concept of " <i>ordre public</i> " would be reflected in the statutory level if the references to " <i>ordre public</i> " were deleted from POO; (b) whether the proposed amendments of deleting references to " <i>ordre public</i> " from POO and SO would result in more restrictions on the rights to assembly and demonstration currently enjoyed by Hong Kong people; and	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>(c) whether the amendments would contravene Article 39 of the Basic Law</p> <p>Views of the Chairman that the Administration should examine how the provisions in POO could be improved and set out clearly in the legislation the conditions which could or could not be imposed on public meetings and public processions by the Commissioner of Police (CP) in light of the comments of CFA in the case of <i>Leung Kwok Hung & Others v HKSAR</i></p> <p>Views of Ms Emily LAU that the term "<i>ordre public</i>" should be defined with sufficient precision, instead of simply removing the references from the two Ordinances and that the proposed amendments might not be in conformity with CFA judgment and ICCPR</p>	
012744 - 014610	Ms Emily LAU Chairman Admin	Discussion on Ms Emily LAU's concern about changes to the operational procedures on the processing of notifications of public meetings and public processions by the Police following the handing down of the CFA judgment on the case of <i>Leung Kwok Hung & Others v HKSAR</i> in 2005 and the effect of the proposed amendments on the rights to assembly and demonstration of Hong Kong people	Admin to respond (para. 2(c) of the minutes)
014611 - 020009	Mr Ronny TONG Chairman Ms Emily LAU Admin	<p>Further discussion on the concept of "public order" and "<i>ordre public</i>" and the impact of the proposed deletion of the references to "<i>ordre public</i>" from POO on the rights to assembly and demonstration</p> <p>Views of the Chairman that to address the CFA's comment that CP must apply the proportionality test in imposing conditions on public meetings and public processions, the Administration should state the conditions clearly in the legislation</p>	Admin to respond (para. 2(b) of the minutes of the meeting)
020010 - 020031	Chairman	Date of next meeting	