

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2582/06-07  
(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 4<sup>th</sup> meeting  
held on Tuesday, 3 July 2007, at 9:00 am  
in Conference Room B of the Legislative Council Building**

**Members present** : Hon Margaret NG (Chairman)  
Hon James TO Kun-sun  
Hon Emily LAU Wai-hing, JP  
Hon Ronny TONG Ka-wah, SC

**Members absent** : Hon LI Kwok-ying, MH, JP  
Hon LEUNG Kwok-hung

**Public Officers attending** : Item I

Department of Justice

Mr Ian WINGFIELD  
Solicitor General

Mr Michael SCOTT  
Senior Assistant Solicitor General

Mr Patrick CHEUNG  
Senior Assistant Director of Public Prosecutions

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

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

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Action

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

**I. Meeting with the Administration**

[The Bill, LC Paper Nos. CB(2)1759/06-07(01), CB(2)1975/06-07(02), CB(2)2034/06-07(02) to (04), CB(2)2106/06-07(03) and CB(2)2336/06-07(01)]

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

2. Referring to paragraph 2 of the Administration's paper (LC Paper No. CB(2)2336/06-07(01)), the Chairman expressed disagreement with the Administration's understanding that none of the deputations attending the Bills Committee meeting on 16 June 2007 had raised particular objection to the proposed amendments per se. The Chairman said that most deputations had made clear their views that the Administration should take the opportunity to

Action

review POO, and the Bills Committee should consider deleting the proposed amendments in Part 3 of the Bill if the Administration did not agree to conduct a comprehensive review of POO. The Chairman strongly requested the Administration to revise paragraph 2 of its paper accordingly.

3. Ms Emily LAU considered that the Administration had failed to provide a satisfactory response to the comments made by the United Nations Human Rights Committee on POO in 1999, in particular the Committee's recommendation that the Administration should review POO and bring its terms into compliance with Article 21 of the International Covenant on Civil and Political Rights (ICCPR).

4. The Administration explained that the proposed amendments to POO and the Societies Ordinance sought to bring the terms used in these Ordinances into conformity with the Court of Final Appeal (CFA)'s judgment on the *Leung Kwok Hung & Others v HKSAR* case (the case). The Administration had indeed kept the POO under review and did not consider that it required any major amendments now. A comprehensive review of POO would be outside the scope of the Bill. Some members held the view that the proposed amendments were not merely textual amendments, but involved changes in policy. Mr Ronny TONG considered that the proposed deletion of the references to "*ordre public*" from POO and the Societies Ordinance was in breach of Article 21 of ICCPR and Article 17 of the Bills of Rights Ordinance (Cap. 383) concerning the right of peaceful assembly.

Admin

5. To facilitate future discussion, the meeting requested the Administration to provide the following information –

- (a) the reasons why the Administration considered it unnecessary to define the term "public order" in the statute;
- (b) the meaning of the term "public order" in overseas jurisdictions;
- (c) the number of objections to / prohibitions of the holding of public meetings and processions raised by the Police on the ground of "public order (*ordre public*)" from 1997 to date, and the difference in the number of objections that would have been raised by the Police during the above period if the references to "*ordre public*" in POO were deleted;
- (d) how the Police had applied the term "public order (*ordre public*)" in the processing of notification of public meetings and processions under POO before and after the handing down of the judgment of the case;

Action

- (e) whether the concept of “public order (*ordre public*)” had been an issue of consideration in any of the appeals considered by the Appeal Board on Public Meetings and Processions since 1997 ; and
- (f) explanation of the scope of the interpretation of the term "protection of the rights and freedoms of others" in the Guidelines on the approach to POO in relation to public meetings and public processions.

6. The Bills Committee also requested –

- ALA2 (a) the legal adviser to the Bills Committee to provide information on the court's ruling on the national flag case, if any, on the concept of "public order" and "public order (*ordre public*)"; and
- Clerk (b) the Clerk to prepare a background brief on Members' deliberations on the review of POO in relation to public meetings and processions.

Proposed amendments to the Criminal Procedure Ordinance (Cap. 221) relating to penalty for perverting the course of justice at common law (Part 5 of the Bill)

7. Members noted that the proposed amendments sought to remove the maximum penalty of seven years' imprisonment for the offence of perverting the course of justice at common law. While raising no objection to the proposed amendments, the Chairman said that the amendments involved changes in policy.

8. Members considered the concern raised by the legal adviser to the Bills Committee on clause 16 in his letter to the Administration (LC Paper No. CB(2)2034/06-07(02)) and the Administration's response (LC Paper No. CB(2)2034/06-07(03)). Members raised no further questions on the proposed amendments.

Proposed amendments to provisions providing that the decision of the Court of First Instance on an appeal is final (Part 8 of the Bill)

9. Members noted that the proposed amendments sought to amend the Fire Service (Installation Contractors) Regulations (Cap. 95 sub. leg. A), the Pharmacy and Poisons Ordinance (Cap. 138) and the Lifts and Escalators (Safety) Ordinance (Cap. 327) to give effect to the CFA's judgment by repealing certain finality provisions. The CFA held that section 13(1) of the Legal Practitioners Ordinance (Cap.159) was inconsistent with the power of final adjudication under Article 82 of the Basic Law. Similar amendments had already been made to 16 Ordinances under the Statute Law (Miscellaneous Provisions) Ordinance 2005.

Action

10. Noting that the finality provisions were contained in other prevailing Ordinances, Ms Emily LAU asked whether similar amendments should be made to these provisions to give effect to the CFA judgment and, if so, the legislative timetable. The Administration agreed to provide further information after the meeting.

Admin

11. Members raised no questions on other Parts of the Bill.

## **II. Date of next meeting**

12. The Chairman said that the Bills Committee would discuss the Administration's response to outstanding issues raised by members, and commence the clause-by-clause examination of the Bill at the next meeting.

13. Members agreed that the next meeting would be held in September 2007. The Chairman said that members would be informed of the meeting date in due course.

14. There being no other business, the meeting ended at 10:47 am.

Council Business Division 2  
Legislative Council Secretariat  
31 July 2007

**Proceedings of the 4<sup>th</sup> meeting of the  
Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2007  
on Tuesday, 3 July 2007, at 9:00 am  
in Conference Room B of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
000000 - 000253	Chairman	Opening remarks	
000254 - 000400	Admin	Administration's response to the issues of concern raised by deputations at the meeting on 16 June 2007 regarding the proposed amendments to the Public Order Ordinance (POO) (Cap. 245) and the Societies Ordinance (SO) (Cap. 151)	
000401 - 001408	Chairman Ms Emily LAU Admin	Views of Ms Emily LAU that the Administration had not taken on board the deputations' suggestion for taking the opportunity of the amendment bill to conduct a comprehensive review of POO  The Administration's response that a comprehensive review on POO would be outside the scope of the Bill  The Chairman disagreed with the Administration that none of the deputations had raised particular objection to the proposed amendments per se, as stated in its paper  The Administration's response that it considered the statement an accurate reflection of its understanding of the position in respect of the proposed amendments per se.	
001409 - 002804	Mr Ronny TONG Chairman Admin	Mr Ronny TONG's concern that the proposed amendments to POO were not in conformity with Article 17 of the Bills of Rights Ordinance (Cap. 383) and Article 21 of the International Covenant on Civil and Political Rights and might further restrict the right of peaceful assembly  The Administration's response that the proposed amendments would limit, but not enlarge, the Commissioner of Police's power to restrict the right of peaceful assembly	
002805 - 004145	Mr James TO Chairman Admin	Views of Mr James TO that –  (a) the proposed amendments were not merely technical amendments, but in effect involve re-enactment of the Ordinance; and  (b) the amendment to repeal the term "public order ( <i>ordre public</i> )" in section 2(2) of POO would result in an absence of clear interpretation of the term under the Ordinance  Background paper on past discussions on the review of POO	<b>Admin to respond (para. 5(a) of the minutes)</b>  <b>Clerk to follow up (para. 6(b) of the minutes)</b>

Time marker	Speaker(s)	Subject(s)	Action required
		The Chairman's view that the Administration had simplified the judgment of the Court of Final Appeal (CFA) into a matter of technical amendments	
004146 - 005018	Ms Emily LAU Chairman Admin	Discussion on Ms Emily LAU's view that the Administration failed to address the comments made by the United Nations Human Rights Committee (UNHCR) in 1999 on the review of POO  The Administration's response that it had provided full response to the UNHCR's comments in its second periodic report issued in 2005 and the supplementary information provided to UNHCR in 2006	
005019 - 010347	Mr James TO Chairman Admin	Issues of concern relating to processing of notification of public meetings and processions under POO  The legal adviser to the Bills Committee to provide the relevant court ruling in the national flag case relating to the concept of "public order" and "public order ( <i>ordre public</i> )"	<b>Admin to respond (para. 5(b) to (f) of the minutes)</b>  <b>ALA2 to follow up (para. 6(a) of the minutes)</b>
010348 - 010912	Chairman Admin	Proposed amendments to the Criminal Procedure Ordinance (Cap. 221) relating to penalty for perverting the course of justice at common law (Part 5 of the Bill)	
010913 - 011521	Chairman ALA2 Administration Ms Emily LAU	Discussion on the concern raised by the legal adviser in respect of the drafting of clause 16 and the Administration's response  The Chairman's view that the proposed amendments would involve changes in policy	
011522 - 012143	Chairman Admin	Proposed amendments to the Fire Service (Installation Contractors) Regulations (Cap. 95 sub. leg. A), the Pharmacy and Poisons Ordinance (Cap. 138) and the Lifts and Escalators (Safety) Ordinance (Cap. 327) relating to amendments to provisions providing that the decision of the Court of First Instance on an appeal was final (Part 8 of the Bill)	
012144 - 013803	Chairman ALA2 Ms Emily LAU Admin	Discussion on Ms Emily LAU's concern whether similar amendments should be proposed to other Ordinances to bring them in conformity with the CFA judgment	<b>Admin to follow up (para. 10 of the minutes)</b>
013804 - 014232	Chairman	Date of next meeting	