

立法會
Legislative Council

LC Paper No. CB(2)52/07-08
(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 5th meeting
held on Monday, 24 September 2007, at 10:45 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 LI Kwok-ying, MH, JP

Members absent : Hon LEUNG Kwok-hung
Hon Ronny TONG Ka-wah, SC

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

Ms Rayne CHAI
Senior Government Counsel
Law Drafting Division

Ms Rosa PANG
Senior Government Counsel
Law Drafting Division

Mr Llewellyn MUI
Senior Government Counsel

Ms Stella CHAN
Senior Government Counsel (Ag.)
Legal Policy 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

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) and (03), CB(2)2693/06-07(01) to (06), CB(2)2737/06-07(01) and LS101/06-07]

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

2. Members noted that the Administration proposed to withdraw Part 2 of the Bill by moving a Committee Stage amendment (CSA) on the ground that it intended to review the "abscondee" regime as a whole (i.e. bankrupts who left Hong Kong and could not be contacted) under the Bankruptcy Ordinance. The

Action

proposed legislative amendments to the "abscondee" regime, if any, would be undertaken in a separate exercise.

Clerk

3. While expressing support for the Administration's proposal, members were concerned about the timeframe for introducing the proposed legislative amendments to the "abscondee" regime and whether public consultation would be conducted. Members agreed that the issue be referred to the Panel on Financial Affairs for follow up.

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

4. Members noted the Administration's response to issues raised by members at the last meeting on 3 July 2007 regarding the proposed amendments to the Public Order Ordinance (POO) and the Societies Ordinance, and the paper prepared by the Legal Service Division of the Legislative Council Secretariat on the effect of not passing the proposed amendments in Part 3 of the Bill (LC Paper No. LS101/06-07).

ALA2

5. Members considered that the Administration's response failed to sever the concept of "public order" (in law and order sense) from "public order (*ordre public*)" in the light of the Court of Final Appeal (CFA)'s judgment on the case of *Leung Kwok Hung & Others v HKSAR*. Given that the Administration had made its stance clear that no further amendment to the Bill was necessary and there had been lengthy discussion on the proposed amendments in Part 3 of the Bill at previous meetings, the Chairman suggested and members agreed that an internal meeting would be held to discuss whether the Bills Committee should propose amendments to Part 3 of the Bill. The Chairman added that the Administration was welcome to join the internal discussion. The Chairman also requested the legal adviser to the Bills Committee to prepare a list of provisions in the legislation which contained the term "public order (*ordre public*)" for members' consideration at the internal meeting.

Proposed amendments relating to wasted costs in criminal proceedings (Part 7 of the Bill)

6. Members noted that The Hong Kong Bar Association (Bar Association) had provided a further submission on Part 7 of the Bill concerning the proposed amendments relating to wasted costs in criminal proceedings. The Administration advised that it would need some time to study the proposals put forward by the Bar Association and would provide a written response later. Members agreed that discussion on Part 7 of the Bill would be held in abeyance pending the written response from the Administration. Members also agreed that –

- Action
Clerk
- (a) the Clerk should send a copy of The Bar Association's written submission to the Law Society of Hong Kong for reference and views, if any; and
- Admin
- (b) the Administration should seek the views of the Law Society of Hong Kong on The Bar Association's proposals, if necessary, and provide a consolidated response to the issues of concern raised by the two legal professional bodies.

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

7. Members considered the Administration's response to the issues raised by members at the last meeting as detailed in its paper. Members raised no further questions on the proposed amendments.

Proposed amendments relating to the commencement of the Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Ordinance 2006 (16 of 2006) (Division 5, Part 13 of the Bill)

- Admin
8. The Administration was requested to provide a paper on the background for introducing the proposed amendments in Part 13 of the Bill (i.e. clauses 63 and 64).
9. The Chairman requested –
- Admin
- (a) the Administration to provide the draft CSAs for the Bills Committee's consideration; and
- Clerk
- (b) the Clerk to prepare a list of follow-up actions required of the Administration.

II. Date of next meeting

10. The Chairman said that the next meeting was scheduled for 9 October 2007 at 10:45 am.

11. There being no other business, the meeting ended at 12:35 pm.

**Proceedings of the 5th meeting of the
Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2007
on Monday, 24 September 2007, at 10:45 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
000000 - 000240	Chairman	Opening remarks	
<i>Part 2 of the Bill – proposed amendments to the Bankruptcy Ordinance (Cap. 6)</i>			
000241 - 000343	Admin	The Administration's response to issues raised by members at the meeting on 7 June 2007 concerning the proposed amendments to the Bankruptcy Ordinance (BO) (LC Paper No. CB(2)2693/06-07(01))	
000344 - 000723	Chairman Ms Emily LAU Admin	Discussion on Ms Emily LAU's concern – (a) about the legislative timetable for introducing the amendments to the "abscontee" regime as a whole under BO; and (b) whether public consultation would be conducted on the proposed amendments The subject matter should be referred to the Panel on Financial Affairs for follow up	Clerk to follow up (para. 3 of the minutes)
<i>Part 3 of the Bill – proposed amendments to references to "(ordre public)" in the Public Order Ordinance (Cap. 245) and the Societies Ordinance (Cap. 151)</i>			
000724 - 001200	Chairman Admin	The Administration's response to issues raised by members at the last meeting regarding the proposed amendments to the Public Order Ordinance (POO) and the Societies Ordinance (LC Paper No. CB(2)2693/06-07(02))	
001201 - 001610	Chairman ALA2	Paper prepared by the Legal Service Division of the Legislative Council Secretariat on the effect of not passing the proposed amendments in Part 3 of the Bill (LC Paper No. LS101/06-07)	
001611 - 002945	Chairman ALA2 Ms Emily LAU Admin	Whether the Administration's proposed amendment could sever the concept of "public order" (in law and order sense) from "public order (<i>ordre public</i>)" in the light of the Court of Final Appeal's judgment on the case of <i>Leung Kwok Hung & Others v HKSAR</i> The Chairman's suggestion that the Bills Committee should hold an internal discussion on whether it should move CSAs to Part 3 of the Bill The legal adviser was requested to provide a list of provisions in the legislation which contained the term "public order (<i>ordre public</i>)"	ALA2 to follow up (para. 5 of the minutes)

Time marker	Speaker(s)	Subject(s)	Action required
<i>Part 8 of the Bill – proposed amendments to provisions providing that the decision of the Court of First Instance on an appeal is final</i>			
002946 - 003120	Chairman Admin	The Administration's response to issues raised at the last meeting (LC Paper No. CB(2)2693/06-07(03))	
<i>Part 7 of the Bill – proposed amendments relating to wasted costs in criminal proceedings</i>			
003121 - 003514	Chairman Admin Ms Emily LAU	Discussion on The Hong Kong Bar Association (Bar Association)'s written submission on Part 7 of the Bill concerning wasted costs in criminal proceedings Issues to be followed up by the Administration and the Clerk	Admin and Clerk to follow up (para. 6(a) and (b) of the minutes)
<i>Clause-by-clause examination of the Bill</i>			
003515 - 003935	Chairman Ms Emily LAU Admin	Clauses 4 to 14 (Part 3 of the Bill)	
003936 - 004122	Chairman Ms Emily LAU Admin	Clause 15 (Part 4 of the Bill)	
004123 - 004242	Chairman ALA2 Admin	Clause 16 (Part 5 of the Bill)	
004243 - 004650	Chairman ALA2 Admin	Clauses 17 to 20 (Part 6 of the Bill)	
004651 - 004715	Chairman Admin	Discussion on clauses 21 to 22 (Part 7 of the Bill) would be held in abeyance pending the Administration's response to the submission from the Bar Association	
004716 - 005300	Chairman ALA2 Admin	Clauses 23 to 30 (Part 8 of the Bill)	
005301 - 005425	Chairman Admin	Clauses 31 to 34 (Part 9 of the Bill)	
005426 - 005608	Chairman Admin	Clauses 35 and 36 (Part 10 of the Bill)	
005609 - 010610	Chairman ALA2 Admin	Clauses 37 to 42 (Part 11 of the Bill)	
010611 - 010842	Chairman Admin	Clause 43 (Part 12 of the Bill)	

Time marker	Speaker(s)	Subject(s)	Action required
010843 - 012015	Chairman Mr LI Kwok-ying Ms Emily LAU Admin	Clauses 44 to 48 (Division 1, Part 13 of the Bill)	
012016 - 012710	Chairman Ms Emily LAU ALA2 Admin	Clauses 49 to 56 (Division 2, Part 13 of the Bill)	
012711 - 012810	Chairman Admin	Clauses 57 and 58 (Division 3, Part 13 of the Bill)	
012811 - 012930	Chairman ALA2 Admin	Clauses 59 to 61 (Division 4, Part 13 of the Bill)	
012931 - 013555	Chairman Ms Emily LAU Admin	Clauses 62 to 64 (Division 5, Part 13 of the Bill) The Administration was requested to provide a paper on the background for proposing the amendments	Admin to provide a response (para. 8 of the minutes)
013556 - 014010	Chairman Ms Emily LAU Admin	Clauses 65 to 70 (Division 6, Part 13 of the Bill)	
014011 - 014430	Chairman ALA2 Ms Emily LAU Admin	Clauses 71 to 79 (Part 14 of the Bill)	
014431 - 014232	Chairman	Issues to be followed up and the date of next meeting	Admin and Clerk to follow up (para. 9(a) and (b) of the minutes)

Council Business Division 2
Legislative Council Secretariat
 16 October 2007