

立法會
Legislative Council

LC Paper No. CB(2)623/07-08
(These minutes have been
cleared with the Chairman)

Ref : CB2/BC/8/06

Bills Committee on Statute Law
(Miscellaneous Provisions) Bill 2007

Minutes of the 6th meeting
held on Thursday, 29 November 2007, at 4:30 pm
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

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**).

Action

I. Proposed amendments to Part 3 of the Bill concerning amendments to references to "*ordre public*" in the Societies Ordinance (Cap. 151) and the Public Order Ordinance (Cap. 245)

2. The Chairman said that the purpose of the meeting was for the Bills Committee to deliberate whether it would propose amendments to Part 3 of the Bill concerning amendments to references to "*ordre public*" in the Societies Ordinance (Cap. 151) and the Public Order Ordinance (POO) (Cap. 245).

3. Assistant Legal Adviser 2 took members through LC Paper No. LS4/07-08 which provided a list of references to "*ordre public*" in the Laws of Hong Kong. The Chairman drew members' attention to the fact that as references to "*ordre public*" were found in other ordinances, any amendments proposed to the term "*ordre public*" in POO might give rise to the question of consistency of the terms being used in the Laws of Hong Kong.

4. Referring members to paragraph 3 of LC Paper No. LS101/06-07 prepared by the Legal Service Division, the Chairman said that as stated in the paper, as a matter of law, the term "*ordre public*" in sections 14(1), 14(5) and 15(2) of POO was invalid and void after the handing down of the Court of Final Appeal (CFA)'s judgment in the case of *HKSAR v LEUNG Kwok-hung and others*. Thus, there would be no effect in law even if they remained in the statute book in case Part 3 of the Bill was not passed. The Chairman further said that some members and deputations who presented views to the Bills Committee had raised concern as to whether the proposed repeal of references to "*ordre public*" could bring the terms used in POO into conformity with the CFA judgment. They held the view that the Administration should take the opportunity to review the relevant provisions in POO.

5. In the light of the above, the Chairman suggested that, instead of proposing amendments to the Bill, members might wish to consider not to pass the proposed amendments in Part 3 of the Bill, and make a request during the Resumption of Second Reading debate on the Bill for the Administration to conduct a comprehensive review of POO. As such, the Bills Committee would propose a Committee Stage amendment to delete Part 3 from the Bill. Ms Emily LAU supported the proposal.

6. While expressing support for the Chairman's suggestion, Mr James TO wondered if the Bills Committee should consider adding a definition of "public order" in POO. The Chairman said that it would be imprudent for the Bills Committee to propose any amendments to POO without studying the proposals thoroughly. Members agreed not to pursue Mr TO's suggestion.

7. Mr LI Kwok-ying expressed concern about the impact on the regulation of public meetings and processions by the Police if the proposed amendments in Part

Action

3 of the Bill were not passed. The Chairman recapitulated that the Administration had explained to the Bills Committee at the previous meetings that since the handing down of the CFA's judgment on 8 July 2005, the term "public order (*ordre public*)" had been taken to mean "public order" in the law and order sense, which accorded with what the Police had been doing in practice prior to the judgment. The Administration had advised that the proposed amendments in the Bill merely sought to bring the statute book into conformity with the law in force.

Clerk 8. Members agreed that the Administration's response to the Chairman's proposal should be sought, and the Bills Committee would further discuss the matter at the next meeting.

II. Any other business

9. Members noted that the Administration was still studying the Hong Kong Bar Association's proposals in its submission on the proposed amendments in Part 7 of the Bill relating to the wasted costs in criminal proceedings, and was unable to revert to the Bills Committee at the moment.

10. The Chairman said that the next meeting would be scheduled after the response from the Administration was received. Members would be notified of the meeting date in due course.

11. There being no other business, the meeting ended at 4:58 pm.

Council Business Division 2
Legislative Council Secretariat
13 December 2007

**Proceedings of the 6th meeting of the
Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2007
on Thursday, 29 November 2007, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
000000 - 000544	Chairman	The Chairman's suggestion that the Bills Committee should consider not to pass the proposed amendments in Part 3 of the Bill concerning amendments to references to " <i>ordre public</i> " in the Societies Ordinance (Cap. 151) and the Public Order Ordinance (POO) (Cap. 245)	
000545 - 000938	ALA2 Chairman Ms Emily LAU	Briefing by the legal adviser on the paper prepared by the Legal Service Division which provided a list of references to " <i>ordre public</i> " in the Laws of Hong Kong (LC Paper No. LS4/07-08)	
000939 - 001106	Chairman Ms Emily LAU	Discussion on the Chairman's suggestion of not passing the proposed amendments in Part 3 of the Bill	
001107 - 001321	Mr James TO Chairman Ms Emily LAU	Discussion on Mr James TO's concern as to whether the Bills Committee should consider adding a definition of "public order" in POO	
001322 - 001839	Chairman Mr LI Kwok-ying Ms Emily LAU ALA2	Mr LI Kwok-ying's concern about the effect of not passing the proposed amendments in Part 3 of the Bill on the regulation of public meetings and processions by the Police The Administration's response to the proposal of not passing the proposed amendments in Part 3 of the Bill	Clerk
001840 - 002038	Chairman	Outstanding issues to be followed up by the Bills Committee	