

立法會
Legislative Council

Ref : CB2/BC/11/06

LC Paper No. CB(2)2595/07-08
(These minutes have been seen by
the Administration)

**Bills Committee on
Domestic Violence (Amendment) Bill 2007**

**Minutes of the 9th meeting
held on Tuesday, 27 May 2008, at 4:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Dr Hon Fernando CHEUNG Chiu-hung (Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Margaret NG
Hon James TO Kun-sun
Hon CHAN Yuen-han, SBS, JP
Hon Bernard CHAN, GBS, JP
Dr Hon YEUNG Sum, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon KWONG Chi-kin
- Member attending** : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
- Members absent** : Hon Ronny TONG Ka-wah, SC
Hon TAM Heung-man
Hon Mrs Anson CHAN, GBM, JP

- Public Officers attending** : Miss Eliza LEE
Deputy Secretary for Labour and Welfare (Welfare)1
- Miss Hanny LAM
Principal Assistant Secretary for Labour and Welfare (Welfare)2
- Ms Winnie LEUNG
Assistant Secretary for Labour and Welfare (Welfare)2A
- Mrs Anna MAK
Assistant Director (Family and Child Welfare)
Social Welfare Department
- Mr Gilbert MO
Deputy Law Draftsman (Bilingual Drafting & Administration)
Department of Justice
- Clerk in attendance** : Miss Mary SO
Chief Council Secretary (2) 5
- Staff in attendance** : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1
- Ms Maisie LAM
Council Secretary (2) 2
- Ms Sandy HAU
Legislative Assistant (2) 5

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I. Meeting with the Administration

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

Expanding the scope of the Bill to cover same sex cohabitants

2. The Administration advised that on review, it had come to the view that the protection under the Domestic Violence Ordinance (Cap. 189) (DVO) should be extended to cover cohabitation between persons of the same sex. It, however, emphasised that the proposed extension of the scope of the DVO to cover such

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cohabitation was only introduced in response to the distinct and unique context of domestic violence. It remained the Administration's clear policy not to recognise same sex relationships. Any change to this policy stance should not be introduced unless a consensus or a majority view was reached within the society.

3. The Administration further advised that as the proposed amendment to the DVO to include cohabitation between persons of the same sex in its coverage would fall outside the scope of the Bill, the proposed amendment would have to be effected by way of a separate amendment bill. Accordingly, the Secretary for Labour and Welfare would, when moving the resumption of Second Reading debate on the Bill, undertake that the Administration would introduce amendments to the DVO to include cohabitation between persons of the same sex at the earliest possible time in the next legislative session. This two-stage approach sought to ensure that the additional protection conferred by the current Bill could be implemented at the earliest opportunity, while the Administration would seek to introduce amendments to include cohabitation between persons of the same sex in the coverage of the DVO as soon as possible following the commencement of the new Legislative Council (LegCo) term.

4. Ms Miriam LAU supported the two-stage approach to enable the additional protection conferred by the Bill to be implemented as soon as practicable and without undue delay arising from the latest proposal.

5. Dr Fernando CHEUNG welcomed the change of policy by the Administration to extend the coverage of the DVO to same sex cohabitants. Dr CHEUNG however raised the concern about the delay in providing protection to same sex cohabitants in the DVO if the two-stage approach proposed by the Administration was adopted. Ms Audrey EU, Ms Margaret NG, Ms Emily LAU and Dr YEUNG Sum's clear preference was for the Administration to consider amending the long title of the Bill such that amendments could be made to the Bill at the Committee Stage to extend coverage of the DVO to include same sex cohabitants.

6. The Administration replied that Rule 58(9) of the Rules of Procedure of the Legislative Council (RoP) provided that "If any amendment to the title of the bill is made necessary by an amendment to the bill, it shall be made at the conclusion of the proceedings detailed above, but no question shall be put that the title (as amended) stand part of the bill; nor shall any question be put upon the enacting formula." Past precedent cases involving amendments to titles of bills moved by the Administration all proceeded in compliance with the requirements as set out in RoP 58(9). According to its legal advice, and in accordance with RoP 58(9), the Administration was not in a position to move an amendment to the title of the bill at the outset, so as to enable the proposed amendment to extend the coverage of

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the Bill to include same sex cohabitants. The Administration added that more time was required to examine and draft the amendments to effect the intended coverage of same sex cohabitation. Timingwise, introducing the amendments in the new LegCo term would enable the Administration to devote the summer months to conducting research and preparing the amendments.

7. Ms Audrey EU, Ms Margaret NG, Ms Emily LAU and Dr YEUNG Sum considered that as extending the coverage of the DVO to include same sex cohabitants was within the subject matter of the Bill to enhance protection to domestic violence victims, introducing amendments to certain provisions of the DVO to cover same sex cohabitants could be allowed under RoP 57(4) governing amendments to bills. The Administration replied that legal advice was that the proposed amendment would contravene the scope test as specified under RoP 57(4), which required that "an amendment must be relevant to the subject matter of the bill and to the subject matter of the clause to which it relates".

8. Whilst preferring extending the coverage of same sex cohabitants in the current Bill, members took note of the Administration's position on the interpretation of the RoP regarding amendments to bills. Members further requested the Secretariat to prepare a paper on the matters that the President of LegCo would consider when ruling on the admissibility of an amendment proposed to the long title of a bill.

Introducing a definition of "molest" in the DVO

9. Members noted the supplementary information note provided by the Administration on clarification of "molest" in the DVO (LC Paper No. CB(2)1948/07-08(02)), and did not raise any queries.

Committee Stage amendments (CSAs) proposed by the Administration

10. Senior Assistant Legal Adviser 1 said that the proposed CSAs to be moved by the Administration (LC Paper No. CB(2) 1057/07-08(01)) were in order.

Resumption of Second Reading debate on the Bill

11. As the Bills Committee had completed scrutiny of the Bill, the Chairman said that the Bills Committee would report its deliberations to the House Committee on 30 May 2008, recommending the resumption of the Second Reading debate on the Bill at the Council meeting on 18 June 2008.

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12. There being no other business, the meeting ended at 6:15 pm.

Council Business Division 2
Legislative Council Secretariat
11 July 2008

**Proceedings of the ninth meeting of
Bills Committee on Domestic Violence (Amendment) Bill 2007
on Tuesday, 27 May 2008, at 4:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000727	Chairman	Opening remarks	
000728 - 001533	Admin	Briefing by the Administration on including same sex cohabitants in the Domestic Violence Ordinance (Cap. 189) (DVO) [LC Paper No. CB(2)1948/07-08(01)]	
001534 - 014422	Chairman Ms Audrey EU Admin SALA1 Dr YEUNG Sum Ms Miriam LAU Ms Margaret NG Ms Emily LAU Mr LEUNG Kwok-hung	Whether the Administration could amend the long title of the Bill to obviate the need of introducing a separate amendment bill to expand the scope of the DVO to cover same sex cohabitants The Secretariat was requested to prepare a paper on the matters that the President of the Legislative Council would consider when ruling on the admissibility of an amendment proposed to the long title of a bill	✓ (SALA1 to provide the paper)
014423 - 014439	Chairman Dr YEUNG Sum	Supplementary information note on clarification of "molest" in the DVO [LC Paper No. CB(2)1948/07-08(02)]	
014440 - 014629	Chairman Dr YEUNG Sum Ms Emily LAU SALA1 Admin	Proposed Committee Stage amendments to be moved by the Administration	
014630 - 014700	Chairman Ms Emily LAU Dr YEUNG Sum	Concluding remarks	