

立法會

Legislative Council

LC Paper No. LS99/07-08

Paper for the Bills Committee on Domestic Violence (Amendment) Bill 2007

Procedural issues related to amendment to the long title of a bill

At the meeting of the Bills Committee on 27 May 2008, the Bills Committee instructed the Secretariat to prepare a paper on the matters that the President would consider when ruling on the admissibility of an amendment proposed to the long title of a bill.

2. The Legal Service Division has prepared a paper entitled “Procedural issues related to the long title of a bill” for the Bills Committee on Rail Merger Bill (LC Paper No. LS78/06-07) and members may wish to refer to that paper for information on the said matters.

3. The Legal Service Division has also prepared a paper entitled “Application of Rule 57(4)(a) of the Rules of Procedure and matters relating to the long title of the Rail Merger Bill” (LC Paper No. LS71/06-07). Paragraph 3 to 5 of the paper set out the proceedings on bills, paragraphs 6 and 8 explain the requirement of relevance in the Rules of Procedure. Factors taken into consideration by the President in ruling on the question of relevance of a proposed amendment are set out in paragraphs 9 to 12 of the paper.

Previous ruling of the President on proposed amendment to clauses in the Bill as well as its long title

4. On the proposed Committee Stage amendments (CSAs) to the Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Bill 2005, the President made a ruling on proposals to amend various clauses and the long title. The Bill concerns the recognition of certification, medical examination and treatment conducted or given by a registered Chinese Medicine Practitioner (CMP) for the purposes of entitlement to certain employees' benefits under certain ordinances. The effect of Hon LI Kwok-ying's proposed CSAs was to accord listed CMP the same recognition proposed for registered CMP. Apart from adding "listed CMP" at various places of the Bill alongside "registered CMP", the proposed CSAs also sought to amend the long title of the Bill along the same line.

5. The President stated her opinion that given the very clear objective of the Bill was to seek to give recognition to registered CMP only, she could not persuade herself that the CSAs proposed to the Bill by Hon LI Kwok-ying were in compliance with Rule 57(4)(a).

6. The President also stated that she understood from discussions in the Bills Committee the reasons for the proposal to extend the recognition to listed CMP. However, in making rulings for the purpose of Rule 57(4)(a), she was not able to concern herself with the merit or otherwise of proposed amendments to bills. She could only deal with them in accordance with the prescribed rules and procedure. (The same principle was also stated in the President's ruling on the Unsolicited Electronic Messages Bill dated 17 May 2007 and on the Legislative Council (Amendment) Bill 2007 dated 17 April 2008.)

7. It would seem that the same principles would apply to an amendment proposed by the Administration. In the same ruling, the President stated that even if the Administration accepted the arguments for extending the recognition to listed CMP and proposed the same CSAs as Hon LI Kwok-ying's, she would have ruled them out of order under Rule 57(4)(a). The proper procedure for seeking the extension of recognition is for a fresh bill to be introduced into this Council, so that Members can consider the merit of the proposal and take their decisions.

8. It has been said that in the case of the Mainland Judgments (Reciprocal Enforcement) Bill, amendment to the long title was made. The circumstances in that Bill may be different. The objects of that Bill, as stated by its long title, were to "make provisions for the enforcement in Hong Kong of judgments in civil or commercial matters that are given in the Mainland which afford reciprocal treatment to judgments given in Hong Kong; for facilitating the enforcement in the Mainland of judgments in civil or commercial matters that are given in Hong Kong; and for matters connected therewith". As the Bill sought to give effect to the "Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region Pursuant to Choice of Court Agreements between Parties Concerned" (the Arrangement), the Bills Committee considered it logical for the long title of the bill to contain a reference to the Arrangement. The Administration had agreed to move such an amendment. When moving the amendment, the Secretary for Justice stated that the amendment was proposed in order to more clearly reflect the purpose of the Bill by make express reference to the Arrangement. No ruling has been made by the President in respect of that Bill.

Prepared by

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