

立法會
Legislative Council

LC Paper No. CB(2)2435/07-08
(These minutes have been
seen by the Administration)

Ref : CB2/BC/4/07

Bills Committee on Statute Law
(Miscellaneous Provisions) Bill 2008

Minutes of the third meeting
held on Friday, 9 May 2008, at 8:30 am
in Conference Room B of the Legislative Council Building

Members present : Hon Margaret NG (Chairman)
Hon Miriam LAU Kin-yee, GBS, JP
Hon LI Kwok-ying, MH, JP
Hon Ronny TONG Ka-wah, SC

Members absent : Hon Martin LEE Chu-ming, SC, JP
Hon James TO Kun-sun

Public Officers attending : Item II
Department of Justice

Mr Michael Scott
Senior Assistant Solicitor General

Ms Vicki LEE
Senior Government Counsel
Law Drafting Division

Ms Karmen KWOK
Government Counsel
Law Drafting Division

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

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

I. Confirmation of minutes
[LC Paper No. CB(2)1809/07-08]

The minutes of meeting held on 18 April 2008 were confirmed.

II. Meeting with the Administration
[The Bill, Legislative Council Brief, LC Paper Nos. LS48/07-08, CB(2)1550/07-08(01) to (03) and CB(2)1878/07-08(01)]

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

Proposed amendments to various Ordinances containing offence provisions with the drafting formula "to the satisfaction of" an enforcement agency (Parts 2 and 3 of the Bill)

Admin

3. The Bills Committee requested the Administration to –

- (a) seek the views of the relevant authorities on whether and what actions would be taken to inform the person regulated of the specific measures to be taken "to the satisfaction of" those authorities after the relevant provisions were amended as proposed;
- (b) advise whether a person who had commenced a regulated activity without approaching the relevant authority to ascertain the measures to be taken "to the satisfaction" of that agency would be subject to prosecution, even if the authority had not specified the measures to be taken to its satisfaction;
- (c) review the Chinese rendition of "as soon as practicable";

Action

- (d) consider whether the proposed new section 11(5)(a) of the Mass Transit Railway Ordinance (Cap. 556) under clause 9 should instead be added to section 11(1) of the Ordinance;
- (e) advise when prosecution would be taken against a person regulated for not ascertaining from the authority, "before the contravention", as to how the authority was to be satisfied for the purposes of regulation 12 or 13 of the Boilers and Pressure Vessels Regulations (Cap. 56A); and
- (f) consider whether it would be more appropriate to specify how the authority (Commissioner of Customs and Excise) was to be satisfied for the purposes of the relevant regulations of the Dutiable Commodities Regulations (Cap. 109A) by administrative measures instead of requiring the person regulated to take actions "to the satisfaction of the Commissioner".

4. Members expressed concern about requiring the person regulated to approach the relevant authorities to ascertain measures to be taken "to the satisfaction of" those authorities and whether a person who had commenced a regulated activity without approaching the relevant authority to ascertain the measures to be taken "to the satisfaction of" that authority would be subject to prosecution, after the relevant provisions were amended as proposed. They were concerned that the onus of responsibility would be put on the person regulated. The Administration explained that the proposed amendment sought to regulate a person who had carried on the activity after the relevant authority had imposed the requirement.

5. The Chairman recapitulated members that when the "to the satisfaction" formula was discussed by the Panel on Administration of Justice and Legal Services, the concern about requiring the person regulated to approach the relevant authorities to ascertain the measures to be taken "to the satisfaction of" those authorities was raised. She considered that the Administration's response did not address the question raised by members. The Administration was requested to provide a written response to the concern about the requirement and consider deleting the relevant provisions.

Admin

III. Any other business

6. Members noted that the Bills Committee would hold its next meeting on 22 May 2008 at 4:30 pm.

Action

7. There being no other business, the meeting ended at 10:38 am.

Council Business Division 2
Legislative Council Secretariat
3 July 2008

**Proceedings of the third meeting of the
Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2008
on Friday, 9 May 2008, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Confirmation of minutes</i>			
000000 - 000330	Chairman	Confirmation of minutes	
<i>Agenda item II – Meeting with the Administration</i>			
<i>Proposed amendments under Parts 2 and 3 of the Bill</i>			
000331 - 010417	Chairman Admin Ms Miriam LAU Mr LI Kwok-ying ALA2	Proposed amendments to the Insurance Companies Ordinance (Cap. 41) Members' concern about requiring the insurer to approach the Insurance Authority to ascertain the measures to be taken to its satisfaction after the provisions were amended as proposed Discussion on Mr LI Kwok-ying's concern about the Chinese rendition of "as soon as practicable" in the proposed new section 41(1A)(a) of Cap. 41, and the meaning of "insurer" in the Ordinance ALA2's concern about the drafting of the proposed new section 41(1B) of Cap. 41	Admin to provide response
010418 - 010941	Chairman Admin	Proposed amendments to the Buildings Ordinance (Cap. 123)	Admin to provide response
010942 - 011403	Chairman Admin Mr LI Kwok-ying	Proposed amendments to the Public Health and Municipal Services Ordinance (Cap. 132)	
011404 - 011537	Chairman Admin Mr LI Kwok-ying	Proposed amendments to the Aerial Ropeways (Safety) Ordinance (Cap. 211)	Admin to provide response
011538 - 011710	Chairman Admin	Proposed amendments to the Waste Disposal Ordinance (Cap. 354)	Admin to provide response
011711 - 013855	Chairman Admin Mr LI Kwok-ying Ms Miriam LAU	Proposed amendments to the Mass Transit Railway Ordinance (Cap. 556) The Administration to respond to members' concern about requiring the person regulated to approach the relevant authorities to ascertain measures to be taken "to the satisfaction" of those authorities, and consider deleting such requirement in the proposed amendments under Parts 2 and 3 of the Bill	Admin to provide response
013856 - 014745	Chairman Admin Ms Miriam LAU	Proposed amendments to the Boilers and Pressure Vessels Regulations (Cap. 56A)	Admin to provide response

Time marker	Speaker(s)	Subject(s)	Action required
014746 - 020329	Chairman Admin Ms Miriam LAU	Proposed amendments to the Dutiable Commodities Regulations (Cap. 109A)	Admin to provide response
<i>Any Other Business</i>			
020330 - 020503	Chairman Admin Ms Miriam LAU	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
3 July 2008