

立法會
Legislative Council

LC Paper No. CB(1)10/12-13
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/10/2

Bills Committee on Companies Bill

**Minutes of the thirty-seventh meeting held on
Monday, 7 May 2012, at 9:00 am
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon Paul CHAN Mo-po, MH, JP (Chairman)
Hon Starry LEE Wai-king, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Miriam LAU Kin-ye, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, SBS, JP
- Public officers attending** : **Agenda item I**
Mr Darryl CHAN
Deputy Secretary for Financial Services and the
Treasury (Financial Services)

Mr Maurice LOO
Principal Assistant Secretary for Financial
Services and the Treasury (Financial Services)

Mr Nick AU YEUNG
Principal Assistant Secretary for Financial
Services and the Treasury (Financial Services)

Ms Rita HO
Registry Solicitor
Companies Registry

Mrs Karen HO
Deputy Principal Solicitor
(Company Law Reform)
Companies Registry

Ms Phyllis MCKENNA
Deputy Principal Solicitor
(Company Law Reform)
Companies Registry

Mrs Christine Frances SIT
Senior Solicitor
(Company Law Reform)
Companies Registry

Ms Margaret CHAN
Solicitor (Company Law Reform)
Companies Registry

Mr CHUNG Wai-tim
Solicitor (Company Law Reform)
Companies Registry

Mr Edward TYLER
Senior Assistant Law Officer (Civil Law)
Department of Justice

Ms Natalie WONG
Senior Government Counsel
Department of Justice

Miss Selina LAU
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)4

Staff in attendance : Mr KAU Kin-wah
Senior Assistant Legal Adviser 3

Mr Timothy TSO
Assistant Legal Adviser 2

Ms Sharon CHUNG
Senior Council Secretary (1)4

Action

I Meeting with the Administration

Draft Committee Stage amendments proposed by the Administration

(LC Paper No. CB(1)1763/11-12(01) -- Draft Committee Stage amendments in relation to Part 16 (Non-Hong Kong Companies) of the Bill proposed by the Administration

LC Paper No. CB(1)1763/11-12(02) -- Draft Committee Stage amendments in relation to Part 19 (Investigations and Enquiries) of the Bill proposed by the Administration)

Other relevant papers

(LC Paper No. CB(3)412/10-11 -- The Bill
LC Paper No. CB(1)339/11-12(01) -- Summary of views of deputations made at the meeting on 9 April 2011

Action

and the Administration's response

File Ref: CBT/17/2C -- Legislative Council Brief

LC Paper No. LS26/10-11 -- Legal Service Division Report

LC Paper No. CB(1)1406/10-11(01) -- Paper on Companies Bill prepared by the Legislative Council Secretariat (Background brief)

The Bills Committee deliberated (Index of proceedings attached at the **Appendix**).

Admin 2. The Bills Committee requested the Administration to take the following actions --

Clause 762 -- Interpretation

- (a) to consider retaining the reference to the Legal Practitioners Ordinance (Cap. 159) for the definition of "solicitor corporation" in clause 762(1) and making arrangements to remove the reference temporarily when the Companies Bill ("CB") came into effect (if the relevant provisions in the Legal Practitioners Ordinance had not yet come into operation by that time);

Clause 786 (Registrar may strike off registered non-Hong Kong company's name)

- (b) to review the drafting of clause 786(4) and the proposed new clause 786(4A), taking into consideration the view that the former should be subject to the latter; and

Clause 833 -- Financial Secretary may give directions to terminate or suspend investigation

- (c) to review the drafting of the proposed new clause 833(2)(b) to allow flexibility for the Court in making its decision on the termination of an investigation of a company's affairs.

Action

II Any other business

3. The Chairman advised that the next meeting would be held on Friday, 11 May 2012 at 8:30 am to meet with the Administration, but if the Council meeting of 9 May 2012 continued on 11 May, the next meeting of the Bills Committee would be held on Wednesday, 16 May 2012, at 8:30 am to meet with deputations and the Administration to receive views on clause 399.

(Post-meeting note: The thirty-eighth meeting of the Bills Committee was held on Wednesday, 16 May 2012, at 8:30 am to meet with deputations and the Administration.)

4. There being no other business, the meeting ended at 10:24 am.

Council Business Division 1
Legislative Council Secretariat
11 October 2012

Bills Committee on Companies Bill

**Proceedings of the thirty-seventh meeting
on Monday, 7 May 2012, at 9:00 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000400-000453	Chairman	Opening remarks	
<u>Draft Committee Stage amendments in relation to Part 16 (LC Paper No. CB(1)1763/11-12(01))</u>			
000454-001425	Administration Mr Andrew LEUNG Senior Assistant Legal Adviser 3 ("SALA3")	<p>Briefing on the proposed general amendments across the Companies Bill ("CB") (Committee Stage amendments ("CSAs") to change "14 days" to "15 days" for delivery of documents to the Registrar) and the proposed CSAs to clause 762 (Interpretation)</p> <p>Discussion on the proposal to delete "as defined by section 2(1) of the Legal Practitioners Ordinance (Cap. 159)" from the reference to "solicitor corporation" under the interpretation of "authorized representative" in clause 762(1)</p> <p>The Administration's advice that the removal was proposed on the consideration that the relevant provisions in the Legal Practitioners Ordinance ("LPO") had not yet come into operation</p> <p>SALA3's views that –</p> <p>(a) if the Administration's legislative intent was to confine the interpretation of "solicitor corporation" under clause 762(1) to those defined under LPO, the reference to LPO should be retained; and</p> <p>(b) if necessary, arrangements could be made to remove the reference to LPO temporarily when CB came into effect</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Request for the Administration to consider the above suggestion</p> <p>Mr Andrew LEUNG's enquiry on the proposed removal of the reference to "responsible officer" in clause 762(1), and the Administration's response</p>	<p>The Administration to take action as in paragraph 2(a) of the minutes</p>
001426-001657	Administration Mr Andrew LEUNG	<p>The Administration's briefing on the proposed CSAs to clauses 764 and 766</p> <p>Mr Andrew LEUNG's enquiry on the proposed CSA to clause 766(3) and the Administration's response</p>	
001658-002352	Administration Mr Andrew LEUNG	<p>The Administration's briefing on the proposed CSAs to clauses 767, 769, 774 and 775</p> <p>Mr Andrew LEUNG's enquiry on new clause 775(3A) and the Administration's response</p>	
002353-002729	Administration Chairman	<p>The Administration's briefing on the proposed CSAs to clauses 776 to 779</p> <p>The Chairman's enquiry on the penalty for contravening clause 779(1)</p>	
002730-003243	Administration	<p>Briefing on the proposed CSAs to clauses 780 to 783 and 785</p>	
003244-005142	Administration SALA3 Mr Ronny TONG	<p>Discussion on the proposed CSA to clause 786 (Registrar may strike off registered non-Hong Kong company's name) and issues related to a non-Hong Kong company which had been struck off from the Companies Register but had a place of business in Hong Kong</p> <p>SALA3's view that clause 786(4) should be subject to the proposed new clause 786(4A) and the Administration should review the drafting of these two clauses</p>	<p>The Administration to take action as in paragraph 2(b) of the minutes</p>
005143-005349	Administration	<p>Briefing on the proposed CSAs to clauses 788 and 790</p>	

Time marker	Speaker	Subject(s)	Action required
<u>Draft Committee Stage amendments in relation to Part 19 (LC Paper No. CB(1)1763/11-12(02))</u>			
005350-005557	Administration	Briefing on the proposed general amendments across CB (CSAs to add "for registration" as appropriate) and the proposed CSAs to clause 830	
005558-010823	Administration Mr Ronny TONG Chairman Ms Miriam LAU	<p>Discussion on the proposed new clause 833(2)(b) (relating to the Financial Secretary's directions to terminate or suspend investigation of a company's affairs)</p> <p>Mr Ronny TONG's concern that the Court's decision that an investigation of a company's affairs be terminated might not be given in the form of an order, and hence the drafting of the proposed new clause 833(2)(b) might impose rigidity on the action to be taken by the Court</p> <p>Ms Miriam LAU's comments that clause 829(1) provided that "The Financial Secretary must appoint a person to investigate a company's affairs if the Court by order declares that the company's affairs ought to be so investigated", and it would be necessary for the Court to make an order to declare the termination of an investigation under the proposed new clause 833(2)(b)</p>	
010824-011531	Administration	Briefing on the proposed CSAs to clauses 854, 865, 867 and 868	
011532-012251	Chairman Administration Mr Ronny TONG Ms Miriam LAU	<p>Further discussion on the proposed new clause 833(2)(b)</p> <p>Members' concern that the drafting of the clause would impose rigidity on the Court's action in terminating an investigation of a company's affairs</p> <p>Mr Ronny TONG's and Ms Miriam LAU's request for the Administration to review the drafting of the proposed new clause 833(2)(b) to provide the Court with some flexibility</p>	The Administration to take action as in paragraph 2(c) of the minutes

Time marker	Speaker	Subject(s)	Action required
012252-012415	Chairman Mr Ronny TONG	Date for the next meeting Mr Ronny TONG's enquiry about the legislative timetable for resumption of the Second Reading debate on CB The Chairman's advice that the plan was to resume the Second Reading debate on the Bill in June 2012	

Council Business Division 1
Legislative Council Secretariat
11 October 2012