

立法會

Legislative Council

LC Paper No. CB(4)720/18-19

(These minutes have been seen
by the Administration)

Ref: CB4/BC/5/17

Bills Committee on Evidence (Amendment) Bill 2018

**Minutes of the fourth meeting
held on Monday, 10 December 2018 at 4:30 pm
in Conference Room 2B of the Legislative Council Complex**

Members present : Hon CHEUNG Kwok-kwan, JP (Chairman)
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon CHAN Chi-chuen
Hon YUNG Hoi-yan

Members absent : Hon James TO Kun-sun
Hon Kenneth LEUNG
Hon Dennis KWOK Wing-hang
Dr Hon Elizabeth QUAT, BBS, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding

**Public officers
attending :** Agenda Item I

Mr Wesley WONG Wai-chung, SC, JP
Solicitor General

Ms Diana LAM
Assistant Solicitor General
(Policy Affairs)(Acting)

Mr Richard MA
Senior Government Counsel

Miss Selina LAU
Senior Government Counsel

Miss Cindy CHEUK
Senior Government Counsel

Mr Ivan LEUNG
Public Prosecutor

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (4)2

Staff in attendance : Ms Rachel DAI
Assistant Legal Adviser 2

Ms Jacqueline LAW
Council Secretary (4)2

Miss Mandy LAM
Legislative Assistant (4)2

Action

I. Meeting with the Administration

[File Ref: LP 5019/16C, LC Paper Nos. CB(3)731/17-18, LS81/17-18, CB(4)1601/17-18(01) – (04), CB(4)196/18-19(01), CB(4)253/18-19(01) – (02) and CB(4)310/18-19(01)]

Discussion

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

Clause-by-clause examination of the Bill

2. The Bills Committee completed clause-by-clause examination of the Evidence (Amendments) Bill 2018 ("the Bill").

3. Members noted that the Administration would propose amendments to the Bill. The Chairman invited members who intended to propose amendments to the Bill to forward them to the Clerk on or before 4 January 2019, so that the Administration could be invited to provide a written response to their proposed amendments for the consideration of the Bills Committee.

II. Any other business

Date of next meeting

4. Members noted that the next meeting of the Bills Committee was scheduled for Friday, 25 January 2019 at 10:45 am if necessary.

(Post-meeting note: Notice of meeting on 25 January 2019 was sent to members vide LC Paper No. CB(4)387/18-19 on 7 January 2019.)

5. There being no other business, the meeting ended at 5:19 pm.

Council Business Division 4
Legislative Council Secretariat
3 April 2019

**Proceedings of the fourth meeting of
Bills Committee on Evidence (Amendment) Bill 2018
on Monday, 10 December 2018 at 4:30 pm
in Conference Room 2B of the Legislative Council Complex**

Running Time	Speaker	Subject(s)	Action required
<i>Agenda Item I – Meeting with the Administration</i>			
000620 – 000753	Chairman	Opening remarks	
000754 – 001335	Chairman Administration	The Administration's further explanation in response to the enquiry raised by Assistant Legal Adviser 2 ("ALA2") at the meeting on 18 October 2018 regarding the application of the new sections 55L and 55N(2)(a).	
001336 – 002234	Chairman Administration	The Administration's briefing on its response to the issues raised at the meeting on 13 November 2018 [LC Paper No. CB(4)253/18-19(02)].	
002235 – 002814	Chairman Mr Tommy CHEUNG Administration	Mr CHEUNG's enquiry and the Administration's response regarding the proposed amendments to the effect that sections 55O(1)(c) and (e) in clause 5 of the Evidence (Amendment) Bill 2018 ("the Bill") be deleted.	
002815 – 003315	Chairman ALA2 Administration	<p>Continuation of clause-by-clause examination of the Bill</p> <p><u>Division 4 – Admission of Hearsay Evidence with Permission of Court</u></p> <p><i>Section 55P</i></p> <p>In response to ALA2's enquiry, the Administration advised that the condition of threshold reliability proposed in section 55P was only concerned with the reliability of the hearsay evidence for the purpose of admissibility. On the other hand, the proposed section 55T in Division 6 of the new Part IVA of the Bill dealt with evidence relating to the credibility of the declarant of a statement if such statement was admitted as hearsay evidence under Divisions 2 to 4 of that Part. Viewed in this light, the Administration confirmed that ALA2's view was correct, i.e. at the stage of deciding whether the condition of threshold reliability was satisfied having regard to the availability of other admissible evidence as set out in the proposed section 55P(2)(e), the court would not consider evidence tending to prove that the declarant made a</p>	

Running Time	Speaker	Subject(s)	Action required
		statement that was inconsistent with the hearsay evidence admitted in the proceedings as proposed in section 55T(3).	
003316 – 003510	Chairman Administration	<i>Section 55Q</i> Members raised no questions.	
003511 – 003645	Chairman Administration	<u>Division 5 – Common Law Rules Relating to Hearsay Evidence</u> <i>Sections 55R and 55S</i> Members raised no questions.	
003646 –0 04032	Chairman Administration	<u>Division 6 – Admissibility of Certain Hearsay Evidence and Related Evidence</u> <i>Sections 55T and 55U</i> Members raised no questions.	
004033 – 004115	Chairman Administration	<u>Division 7 – Supplementary Provision</u> <i>Section 55V</i> Members raised no questions.	
004116 – 004418	Chairman Administration	<u>Division 4 – Admission of Hearsay Evidence with Permission of Court</u> <i>Section 55O</i> Members raised no further questions.	
004419 – 004512	Chairman Administration	<u>Clauses 6 to 7</u> Members raised no questions.	
004513 – 004931	Chairman Administration	<u>Clause 8 and Schedule 2</u> Members raised no questions.	
004932 – 005011	Chairman Administration	Part 3: Consequential Amendments <u>Clauses 9 to 10</u> Members raised no questions.	

Running Time	Speaker	Subject(s)	Action required
005012 – 005224	Chairman ALA2	Completion of clause-by-clause examination of the Bill. Proposed amendments to the Bill and the meeting arrangement. Legislative timetable	
<i>Agenda Item II –Any other business</i>			
005225 – 005241	Chairman Administration	Closing remarks	

Council Business Division 4
Legislative Council Secretariat
3 April 2019