### 立法會 Legislative Council

LC Paper No. CB(2)1697/01-02 (These minutes have been seen by the Administration)

Ref: CB2/BC/3/00

## Bills Committee on Drug Trafficking and Organized Crimes (Amendment) Bill 2000

Minutes of tenth meeting held on Monday, 4 March 2002 at 4:30 pm in Conference Room A of the Legislative Council Building

**Members** : Hon James TO Kun-sun (Chairman)

**Present** Hon Eric LI Ka-cheung, JP

Hon NG Leung-sing, JP Hon Bernard CHAN

Hon Henry WU King-cheong, BBS

Hon WONG Sing-chi Hon IP Kwok-him, JP

Members : Hon Martin LEE Chu-ming, SC, JP
Absent Dr Hon David LI Kwok-po, GBS, JP

Hon Margaret NG

Hon Mrs Selina CHOW LIANG Shuk-yee, JP Hon Ambrose LAU Hon-chuen, GBS, JP

Hon Abraham SHEK Lai-him, JP

**Public Officers** : Ms Mimi LEE **Attending** Principal Assis

Principal Assistant Secretary for Security (Narcotics)

Mr Geoffrey FOX

Senior Assistant Law Draftsman

Department of Justice

Ms Marie SIU

Senior Government Counsel

Department of Justice

Mr Kelvin LEE Government Counsel Department of Justice

Mr LEUNG Lap-fun Superintendent, Narcotics Bureau Hong Kong Police Force

Mr Stephen Barry TARRANT Superintendent, Organized Crime and Triad Bureau Hong Kong Police Force

Ms Diana WONG Superintendent, Financial Investigation Customs and Excise Department

Clerk in : Miss Flora TAI
Attendance : Chief Assistant Secretary (2)2

Staff in : Mr Stephen LAM Assistant Legal Adviser 4

Miss Irene MAN

Senior Assistant Secretary (2)7

Mr Raymond LAM

Senior Assistant Secretary (2)5

Action

Adm

#### I. Meeting with the Administration

[LC Paper Nos. CB(2)744/00-01(01) and CB(2)857/00-01(01)]

The Committee deliberated on the proposals in respect of sections 6, 8 and 9 of Schedule 1, sections 5, 7 and 8 of Schedule 2 and section 3(b)(ii) and (iii) of Schedule 3 in the Bill [LC Paper Nos. CB(2)744/00-01(01) and CB(2)857/01-02(01)]. (index of proceedings attached at **Annex**).

2. To facilitate the work of the Committee, the Administration was requested to -

Application of procedure for enforcing confiscation orders (section 6 of Schedule 1 and section 5 of Schedule 2 in the Bill)

- (a) explain the inadequacies of section 8(1)(a) of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and section 13(1)(a) of the Organised and Serious Crimes Ordinance (Cap. 455), and the justifications for the proposed amendments to these sections;
- (b) provide information about previous cases where the Court did not specify a period within which payment should be made under a confiscation order, or specifying an unduly long period, and the reasons for not specifying the period or specifying such a long period;
- (c) provide information about the periods imposed by the Court in the past for payment under confiscation orders and the reasons for the periods specified;
- (d) provide information about cases in the United Kingdom where the Court granted a period of up to three years for payment under a confiscation order, and the rationale for specifying that payment period;
- (e) explain from a legal point of view how civil proceedings against a defendant for contempt of Court for failure to make payment under a confiscation order would affect criminal proceedings against the same defendant, when the two proceedings were in parallel;

Restraint orders and charging orders (sections 8 and 9 of Schedule 1, sections 7 and 8 of Schedule 2 and section 3(b)(ii) and (iii) of Schedule 3 in the Bill)

Punishment for non-compliance with restraint orders and charging orders

- (f) provide information about the punishment for non-compliance with restraint orders and charging orders in previous cases under the Prevention of Bribery Ordinance (Cap. 201);
- (g) consider whether the proposed penal provisions to be introduced to Cap. 405 and Cap. 455 were appropriate given the disparity between the maximum levels of fine and imprisonment specified in the proposed penal provisions and those in relevant provisions of Cap. 201;

#### Provision of information about value of property

- (h) consider revising the proposed amendments to section 10 of Cap. 405 and section 15 of Cap. 455 to set out clearly that the requisite information referred to in the sections about the value of property was readily available information such as balance in bank account and an assessment of the value of the property was not required;
- (i) explain the provisions in the Crimes Ordinance (Cap. 200) which would apply in respect of the giving of false information under the proposed section 10 of Cap. 405 and the proposed section 15 of Cap. 455; and
- (j) consider incorporating in section 10 of Cap. 405 and section 15 of Cap. 455 the protection provided under section 25A of Cap. 405 and section 25A of Cap. 455 respectively regarding disclosure of information.
- 3. The Committee agreed that the next meeting would be held when the Administration's consolidated response to all the issues raised by members on the proposals in respect of provisions other than sections 25 and 25A of Cap. 405 and Cap. 455 was available. The meeting originally scheduled for 15 March 2002 would therefore be cancelled.

#### II. Any other business

4. There being no other business, the meeting ended at 5:40 pm.

Council Business Division 2
<u>Legislative Council Secretariat</u>
23 April 2002

# Proceedings of the meeting of the Bills Committee on Drug Trafficking and Organized Crimes (Amendment) Bill 2000 on Monday, 4 March 2002 at 4:30 pm in Conference Room A of the Legislative Council Building

Time	Speaker	Subject(s)	Action required
0000 - 0128	Chairman	Welcoming remarks for representatives of	
		the Administration and relevant paper	
0129 - 0353	Admin	Briefing on the proposal in respect of	
		application of procedure for enforcing	
		confiscation orders	
0354 - 0434	Chairman	Existing difficulties and justifications for the	
		proposal in respect of application of	
		procedure for enforcing confiscation orders	
0435 - 0522	Admin	- ditto -	
0523 - 0538	Chairman	- ditto -	
0539 - 0610	Admin	- ditto -	
0611 - 0657	Chairman	- ditto -	
0658 - 0711	Admin	- ditto -	
0712 - 0715	Chairman	- ditto -	
0716 - 0727	Admin	- ditto -	
0728 - 0857	Chairman	- ditto -	
0858 - 0923	Admin	- ditto -	
0924 - 0929	Chairman	- ditto -	
0930 - 0931	Admin	- ditto -	
0932 - 0936	Chairman	- ditto -	

0937 - 1021	Admin	- ditto -	V
			The Administration was
			requested to provide
			information about previous
			cases where the Court did not
			specify a period within which
			payment should be made
			under a confiscation order, or
			specifying an unduly long
			period, and the reasons for not
			specifying the period
1022 - 1023	Chairman	- ditto -	- Fr. J. G Fr
1024 - 1031	Admin	- ditto -	
1032 - 1037	Chairman	- ditto -	
1038 - 1039	Admin	- ditto -	
1040 - 1045	Chairman	- ditto -	
1046 - 1133	Admin	- ditto -	
1134 - 1250	Chairman	- ditto -	
1251 - 1301	Admin	- ditto -	<b>√</b>
1201 1001			The Administration was
			requested to explain the
			inadequacies of section
			8(1)(a) of Cap. 405 and
			section 13(1)(a) of Cap. 455,
			and the justifications for the
			, and the second
			proposed amendments to
1202 1622	A 1 ·	For	these sections
1302 - 1622	Admin	- ditto -	
1623 - 1741	Chairman	Experience in the United Kingdom	
1742 - 1858	Mr IP Kwok-him	Information about the periods imposed by	
		the Court in the past	The Administration was
			requested to provide
			information about the periods
			imposed by the Court in the
			past for payment under
			confiscation orders and the
			reasons for the periods
			specified

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proceedings were in parallel 2819 - 2829 Admin - ditto -				proceedings against the same
2819 - 2829 Admin - ditto -				defendant, when the two
				proceedings were in parallel
2830 - 2915 Chairman - ditto -	2819 - 2829	Admin	- ditto -	
	2830 - 2915	Chairman	- ditto -	

2916 - 3037	Admin	- ditto -	
3038 - 3042	Chairman	- ditto -	
3043 - 3044	Admin	- ditto -	
3045 - 3131	Chairman	- ditto -	
3132 - 3147	Chairman	Punishment for non-compliance with	√
		restraint orders and charging orders under Cap. 201	The Administration was requested to provide information about the punishment for non-compliance with restraint orders and charging orders in
			previous cases under Cap. 201
3148 - 3226	Admin	- ditto -	-
3227 - 3299	Chairman	- ditto -	
3300 - 3308	Admin	- ditto -	
3309 - 3357	Chairman	Disparity between the maximum levels of	V
2259 2205	Admin	fine and imprisonment specified in the proposed penal provisions and those in relevant provisions of Cap. 201	
3358 - 3305	Admin	- ditto -	
3306 - 3411	Chairman	Provision of information about value of property	
3412 - 3555	ALA4	- ditto -	
3556 - 3619	Chairman	- ditto -	
3620 - 4305	Admin	Briefing on the proposal in respect of provision of information about value of property	
4306 - 4310	Chairman	Provision of information about value of property	

4311 - 4315	Admin	- ditto -	
4316 - 4331	Chairman	- ditto -	
4332 - 4529	Admin	- ditto -	
4530 - 4545	Chairman	- ditto -	
4546 - 4654	Mr Henry WU	- ditto -	
4655 - 4836	Admin	- ditto -	
4837 - 4912	Chairman	Drafting of proposed amendments to section	√
		10 of Cap. 405 and section 15 of Cap. 455	The Administration was
			requested to consider revising
			the proposed amendments to
			section 10 of Cap. 405 and
			section 15 of Cap. 455 to set
			out clearly that the requisite
			information referred to in the
			sections about the value of
			property was readily available
			information such as balance in
			bank account and an
			assessment of the value of the
			property was not required
4913 - 4952	Admin	- ditto -	
4953 - 5232	Chairman	- ditto -	
5233 - 5328	Admin	- ditto -	
5329 - 5338	Chairman	- ditto -	
5339 - 5358	Chairman	Giving of false information	
5359 - 5440	Admin	- ditto -	V
			The Administration was
			requested to explain the
			provisions in the Crimes
			Ordinance (Cap. 200) which
			would apply in respect of the
			giving of false information
			under the proposed section 10
			of Cap. 405 and the proposed
			section 15 of Cap. 455
5441 - 5443	Chairman	- ditto -	•
5444 - 5458	Admin	- ditto -	
5459 - 5517	Chairman	- ditto -	

5518 - 5632	ALA4	Protection provided under section 25A of	
		Cap. 405 and section 25A of Cap. 455	
		regarding disclosure of information	
5633 - 5634	Chairman	- ditto -	
5635 - 5708	Admin	- ditto -	
5709 - 5739	Chairman	- ditto -	
5740 - 5753	Admin	- ditto -	
5754 - 5910	Chairman	- ditto -	V
			The Administration was
			requested to consider
			incorporating in section 10 of
			Cap. 405 and section 15 of
			Cap. 455 the protection
			provided under section 25A of
			Cap. 405 and section 25A of
			Cap. 455 respectively
			regarding disclosure of
			information
5911 - 5929	Chairman & Admin	Pages 8 to 10 of LC Paper No. CB(2)744/01-	
		02(01)	
5930 - 01 0002	Admin	Provision of the Administration's response	
		and date of next meeting	
01 0003 - 01 0004	Chairman	- ditto -	
01 0005 - 01 0008	Admin	- ditto -	
01 0009 - 01 0013	Chairman	- ditto -	
01 0014 - 01 0018	Admin	- ditto -	
01 0019 - 01 0052	Chairman	- ditto -	
01 0053 - 01 0056	Admin	- ditto -	
01 0057 - 01 0112	Chairman	- ditto -	

Note: The audio records of the above proceedings are kept at the LegCo Library

Council Business Division 2 <u>Legislative Council Secretariat</u> 23 April 2002