

立法會
Legislative Council

LC Paper No. CB(2)2172/00-01

(These minutes have been
seen by the Administration)

Ref : CB2/BC/4/00

**Bills Committee on Drug Dependent Persons Treatment
and Rehabilitation Centres (Licensing) Bill**

**Minutes of meeting
held on Friday, 2 March 2001 at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members Present** : Hon Cyd HO Sau-lan (Chairman)
Hon James TO Kun-sun
Hon Michael MAK Kwok-fung
Dr Hon LO Wing-lok
Hon IP Kwok-him, JP
- Members Absent** : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon Andrew WONG Wang-fat, JP
Hon LAW Chi-kwong, JP
Dr Hon TANG Siu-tong, JP
- Public Officers Attending** : Ms Mimi LEE
Principal Assistant Secretary for Security (Narcotics)
- Miss Christina CHONG
Assistant Secretary for Security (Narcotics)
- Miss Ann HON
Assistant Director of Social Welfare
- Mrs Lily NG
Senior Social Work Officer

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Ms Brenda LAU
Social Work Officer

Ms Fanny IP
Senior Assistant Law Draftsman

Ms Francoise LAM
Government Counsel

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser

Ms Dora WAI
Senior Assistant Secretary (2) 4

I. Confirmation of minutes of meeting held on 18 December 2000
(LC Paper No. CB(2)968/00-01)

The minutes of the meeting held on 18 December 2000 were confirmed.

II. Meeting with the Administration

Administration's response to the submissions from the Hong Kong Council of Social Service and the Drug Addict Counselling and Rehabilitation Services _____
(LC Paper Nos. CB(2)868/00-01(02), (03) and CB(2)961/00-01(01))

2. Principal Assistant Secretary for Security (Narcotics) (PAS(N)) briefed members on the main points of the Administration's response as set out in the above paper.

3. In response to Mr James TO, Senior Assistant Law Draftsman (SALD) explained that only persons who were suffering from the psychophysical state in which the usual or increasing doses of a dangerous drug or a specified substance were required to prevent the onset of withdrawal symptoms; or had completed treatment for

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drug dependence and were undergoing rehabilitation at a treatment centre (centre) would be considered as drug dependent persons under the Bill. She referred members to clause 2 of the Bill for the definition of a treatment centre. A treatment centre meant any place used or intended to be used for the treatment of four or more drug dependent persons undergoing treatment for drug dependence or rehabilitation on a voluntary basis; and for providing residential accommodation for such persons for purposes mentioned above.

4. The Chairman asked whether the Administration would provide financial assistance to agencies to meet the recurrent cost as mentioned in the submission from the Drug Addict Counselling and Rehabilitation Services. PAS(N) clarified that the recurrent cost mentioned by that agency, such as the expenses of engaging authorised persons to provide services and advice for the renewal of licence or certificate of exemption and employing professionals to take part in the operation and management of a centre, might not necessarily be incurred as there were no such requirements under the Bill. She added that the professional advice of authorised persons, e.g. in areas of fire and building safety, would only be required when a centre first applied for a licence or certificate of exemption. Assistant Director of Social Welfare confirmed that no extra recurrent cost would be incurred after the enactment of the Bill.

Continuation of clause by clause examination of the Bill

Clause 21 - Offences by corporation or partners
(LC Paper No. CB(2)868/00-01(01))

5. In reply to Mr Michael MAK, Senior Assistant Legal Adviser (SALA) said that if "wilful" was added before "neglect", the prosecution would need to introduce evidence on the mental element in order to secure a conviction.

6. PAS(N) asked members, in scrutinising this clause, to consider the importance of conveying a right message to the public that directors of body corporates and partners of partnerships who were issued a licence or certificate of exemption to operate a centre should be fully aware of their responsibilities and liabilities for the operation of the centre.

7. Mr Michael MAK was in support of the views of the Administration. Mr James TO said that the Democratic Party had no views on clause 21.

Clause 22 - Time limit for prosecution of offences

8. The Chairman sought the views of members as to whether clause 22(b) should be deleted with the period as specified in clause 22(a) extended. Mr James TO pointed out that this clause was commonly used in many ordinances. Members considered the clause appropriate without any need for amendment.

Clause 24 - Appeals against decisions of Director
(LC Paper No. CB(2)861/00-01(01))

9. Mr James TO expressed support for the proposal raised by Mr LAW Chi-kwong at the last meeting. He considered it more reasonable for the Administration to seek an injunction to cease the operation of a centre immediately when circumstances so justified rather than to expect a centre to seek judicial review on the decision of the Director of Social Welfare (DSW) made under clause 24(3)(a).

10. PAS(N) said that the Administration had carefully considered Mr LAW Chi-kwong's proposal. However, it considered that DSW, as the licensing authority, should be empowered to handle extremely urgent and critical circumstances in connection with the operation of centres, especially when public interest was involved. The Administration still considered that the mechanism under clause 24(3) was the most direct and effective means to cope with such circumstances. It did not agree to the contention that DSW's power under clause 24(3) was unfettered as the appeals by centres would continue even when centres had ceased operation pursuant to DSW's decision. Moreover, clause 24(3) was not unique, it could be found in a number of ordinances.

11. Dr LO Wing-lok and Mr IP Kwok-him supported retaining clause 24(3) in the Bill. Mr Michael MAK said that he had no strong views in this regard.

12. In order to achieve a way which would be mutually acceptable, Mr James TO suggested that DSW should state clearly the ground on which his opinion was based in the notice of his decision made under clause 24(3). The Chairman asked the Administration to further consider an amendment to effect the proposal of Mr LAW Chi-kwong, i.e. the decision to cease the operation of a centre immediately should rest with the court instead of DSW.

13. SALA pointed out that the wording of clause 24(3)(b) did not require DSW to state the ground in the notice of his decision to immediately suspend the operation of a centre on the ground of contrary to public interest. He also pointed out that the Bill, once passed, would be added to the Schedule to the Administrative Appeals Board Ordinance (Cap. 442), which had the effect that the Chief Executive in Council might by order amend any of the provisions of the Bill under section 4(3) of the Ordinance.

14. In reply to the question raised by Dr LO Wing-lok, SALA said that it would be better to amend clause 24(3)(b) to require DSW to give a more detailed statement about his decision.

15. PAS(N) invited members to note that with the appeal mechanism provided under the Bill, there were no other ordinances which could cease the operation of a

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centre immediately. She expressed her view that being a transparent Government, DSW would not order a centre to cease operation without giving the reason. Nevertheless, she undertook to propose an amendment to clause 24(3)(b) to the effect that DSW should state clearly the ground on which his opinion was based in the notice of his decision made under clause 24(3).

Clause 25 - Codes of Practice relating to operation of treatment centres

16. In reply to the Chairman, PAS(N) said that the Code would be finalised after members had finished scrutinising the Bill. Agencies would be further consulted on the finalised Code.

Clause 27 - No fee payable in respect of licence or certificate of exemption

17. PAS(N) pointed out that the purpose of this provision was to relieve the financial burden of agencies.

Clause 29 - Amendment of Schedule

18. PAS(N) said that the Administration would propose a Committee Stage amendment to delete "Ketamine" currently under the Schedule.

Clause 30 - Transitional provisions

19. Members noted that the Administration would propose a Committee Stage amendment to replace the words in Chinese "為止" with "之時" under clause 30(2)(b)(i). This was only a textual amendment which would not affect the substance of the Bill.

20. In reply to the question raised by Mr IP Kwok-him, SALD said that the "specified operator" under clause 30(1) could mean a body corporate or partnership as the Interpretation and General Clauses Ordinance (Cap. 1) stipulated that persons included any public body and any body of persons, corporate or unincorporate.

Consequential Amendments

21. In response to Mr IP Kwok-him, PAS(N) said that the Secretary for Security may by order amend the Schedule to this Bill under clause 29. SALA said that for urgent scenarios, the Administration could make use of this provision to quickly amend the Schedule. Such order would be subsidiary legislation and could take immediate effect on the date of gazetting.

III. Date of next meeting

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22. The Chairman requested the Administration to have the draft Committee Stage amendments for members' consideration at the next meeting scheduled for 9 March 2001 at 8:30 am.

23. The meeting ended at 10:10 am.

Legislative Council Secretariat

2 August 2001