

立法會
Legislative Council

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the Administration)

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**Bills Committee on
Massage Establishments (Amendment) Bill 2001**

**Minutes of the meeting
held on Tuesday, 10 July 2001 at 8:30 am
in the Chamber of the Legislative Council Building**

Members Present : Hon James TO Kun-sun (Chairman)
Hon LEE Cheuk-yan
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Margaret NG
Hon CHAN Yuen-han, JP
Hon LAU Kong-wah
Dr Hon TANG Siu-tong, JP

Public Officers Attending : Miss Eliza YAU
Principal Assistant Secretary for Security E

Mr Rick CHAN
Assistant Secretary for Security E3

Mr LEE Wai-lam
Chief Superintendent
Support Wing of Police

Mr John WONG
Senior Assistant Law Draftsman

Clerk in Attendance : Mrs Sharon TONG
Chief Assistant Secretary (2) 1

Staff in Attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Miss Betty MA
Senior Assistant Secretary (2) 1

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I. Election of Chairman

Mr James TO was elected Chairman of the Bills Committee.

II. Meeting with the Administration

Scope of the Bill

2. The Chairman said that when the Panel on Security was consulted on the legislative proposal, members of the Panel expressed general support for the proposed exemption of certain types of massage establishments from the licensing control. Members, however, had suggested further relaxation of the scope of control. The Chairman asked whether the Administration had incorporated members' views in the Massage Establishments (Amendment) Bill 2001 (the Bill).

3. Principal Assistant Secretary for Security E (PAS(S)E) said that the Administration had taken into full account members' views expressed at the Panel meeting. The Administration had studied the proposal to further narrow down the scope of control of massage establishments so that those establishments that did not appear to be prone to vice activities would be exempted from the licensing requirement. Although the Administration was open-minded in the matter, it would have to examine the issue carefully to ensure that no grey areas would be created in the legislation' having regard to the fact that the primary objective of the Massage Establishments Ordinance (MEO) was to control and prevent vice activities in massage establishments through licensing.

4. Miss Margaret NG expressed concern that the Bill could not reflect the objective of control of vice activities. It appeared that the policy intention was to allow the Police to exercise control on massage establishments, which was believed to be the most effective way to prevent vice activities in these establishments. In her view, the Bill as presently drafted could not achieve the purpose, but would regulate the provision of massage service or treatment. As massage businesses were not necessarily related to vice activities, the Bill would inhibit the growth of bona fide massage businesses which promoted health and relaxation. The Administration was holding an outdated view against the operation of massage businesses. Miss NG said that while she did not oppose the legislative proposal, she saw no direct relationship

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between licensing of massage establishments and control of vice activities. She urged that the Administration should conduct a comprehensive review of MEO.

5. PAS(S)E explained that when MEO was enacted in 1983, the policy intention was to combat vice activities in massage establishments through the licensing regime, but not to regulate the provision of massage service or treatment as such. She said that the Administration commissioned a consultancy study to review MEO and the related regulatory controls exercised by the Police in 1999. The consultant pointed out that the scope of control was too wide, thus might unnecessarily inhibit the growth of bona fide massage businesses that did not appear to be prone to vice activities. After the review, the Police had implemented a number of procedural or administrative changes to improve the licensing arrangements. The Amendment Bill was to propose further improvements. PAS(S)E added that the Bill did not seek to regulate the provision of massage service and treatment as such. The Security Bureau might further discuss with the Health and Welfare Bureau and Department of Health as to whether provision of such services should be regulated from the angle of public health protection.

6. Miss Margaret NG referred to clause 3 of the Bill and said that the coverage of the legislative amendments needed improvement. She was of the view that although the Bill sought to narrow down the scope of licensing control of massage establishments so that health clubs and beauty parlours in which massage service was provided to a customer by a person of the same sex for health and relaxation purposes would not be required to obtain a massage establishment licence, the provision as proposed might not reflect the intention. She suggested that the Administration should review the proposed section 3(c) to clearly spell out those massage establishments which were excluded from the Bill, such as adding "the premises of a hair salon, or of a beauty parlour, or other establishments that did not appear to be prone to vice activities" before the proposed provision.

Admin 7. Senior Assistant Law Draftsman said that the definition of massage establishment was already laid down in section 2 of MEO. Nevertheless, PAS(S)E noted Miss Margaret NG's concern and agreed to review the proposed section 3(c) along the line of Miss NG's suggested wordings.

Admin 8. Responding to the Chairman, PAS(S)E agreed to provide information on the number of massage assistants in licensed massage establishments and the estimated number of customers receiving massage treatment and service in these establishments.

9. Miss CHAN Yuen-han welcomed the proposed relaxation of control over massage establishments. She sought clarification as to whether a massage assistant providing massage service to customers in the following circumstances would fall within the licensing regime -

- (a) a massage assistant being sent by the massage establishment at which he/she was employed to premises other than a massage establishment

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where full-body massage was administered to a customer of the opposite sex; and

- (b) a massage assistant who got the job assignments through telephone calls and was not attached to any massage establishment.

10. Miss Margaret NG and Miss CHAN Yuen-han sought clarification as to whether a massage assistant providing massage service at premises other than the massage establishment at which he/she was employed would be regarded as assisting in the management or operation of the massage establishment for the purpose of section 4(1) of MEO.

Admin 11. The Administration responded that MEO aimed at controlling massage establishments but not massage assistants. Massage service provided by a massage assistant at premises other than a massage establishment would not be subject to the control of MEO. However, any persons engaged in vice activities in the premises concerned were liable to prosecution under other relevant legislation. The Administration undertook to provide a written response after the meeting.

12. Responding to the Chairman, PAS(S)E said that after the enactment of the Bill, only those establishments where full-body massage was administered to a customer by a person of the opposite sex would fall within the ambit of the licensing control.

13. Mrs Selina CHOW queried as to how vice activities could be combated through licensing of massage establishments. She said that should vice activities take place in massage establishments, prosecution could be brought about under other relevant legislation. She pointed out that massage service and treatment were getting very popular for health and relaxation purposes. In regulating massage establishments, the Administration should take into consideration the number of massage establishments in which vice activities were found and the number of massage establishments that would be regulated under the licensing regime.

14. The Chairman and Mrs Selina CHOW considered that apart from controlling vice activities through licensing, there could be other effective means to control vice activities, e.g. a notification system. Mrs Selina CHOW said that if a notification system was adopted, the Administration could still require the operators of massage establishments to meet certain operation conditions.

15. The Administration made the following response -

- (a) the licensing system made it possible for the local residents' opinions to be gauged before a licence was granted;
- (b) the licensing system enabled the Police to vet whether the operator was a fit and proper person for operating the establishment and to impose licensing conditions, as appropriate, to ensure public safety;

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- (c) according to the record of the Police, vice activities had been found in some massage establishments. There were also massage establishments where no vice activities were found in the initial period of operation but subsequently engaged in such activities. Inspections carried out in the licensing process would facilitate the detection of vice activities in massage establishments. The licensing system made it possible for the Police to inspect the establishments to ensure that the licensing conditions were complied with;
- (d) if a notification system was adopted, it might create enforcement difficulties as the Police would not be able to enter and conduct inspections to prevent vice activities; and
- (e) after the completion of the consultancy study to review MEO and the related regulatory controls exercised by the Police, the Police had streamlined the application procedures and shortened the time required for processing applications from 84 to 34 days in respect of granting "Approval-in-Principle" letters.

16. Miss Margaret NG said that the licensing system could not serve its intended purpose to deter or detect licensees from engaging in vice activities, but rather it would cause unnecessary disturbance to those bona fide massage establishments. She pointed out that sufficient evidence could be collected to prove that vice activities were engaged in massage establishments only if undercover operation was carried out.

17. Mrs Selina CHOW expressed concern about the long processing time taken by the Police to grant the "Approval-in-Principle" letter in respect of an application for a massage establishment licence.

18. To facilitate members' further discussion on the matter, the Chairman requested the Administration to provide a written response explaining the implications on enforcement and controlling vice activities if a notification system in respect of offering full-body massage by persons to customers of the opposite sex was adopted.

19. Mr LEE Cheuk-yan said that quite a number of blind people were trained as massage therapists. A professional massage therapist would provide such service to customers irrespective of their sex. He considered that the licensing system had stifled the development of massage businesses. For instance, the requirement for having two massage beds inside one room had intruded the privacy of customers.

20. Mrs Selina CHOW said that the Administration should not make a presumption that massage establishments would be prone to vice activities. Miss Margaret NG considered that the licensing regime was not cost-effective for controlling vice activities. Members generally were of the view that the licensing system and the Bill as presently drafted might still inhibit bona fide massage businesses.

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Definition of "full-body massage"

21. Miss CHAN Yuen-han, Mrs Selina CHOW and Miss Margaret NG were of the view that the Administration should review the definition of full-body massage in the Bill and consider further relaxing the control of establishments providing full-body massage to customers of opposite sex. They pointed out that massage treatment provided at hairdressing or beauty parlours was not necessarily administered to customers of the same sex. Moreover, it was not unusual for massage to be applied to a person's neck and shoulders. The dividing line should be the part of the body above the chest of a person. Under the proposed definition of "full-body massage", the provision of massage treatment by hairdressing or beauty parlours as well as manipulative therapy might be subject to the licensing control after the enactment of the Bill. As such service providers might not engage in vice activities, Miss Margaret NG expressed concern as to whether it was reasonable to draw a dividing line solely by making reference to the gender of a massage assistant when administering full-body massage to customers.

22. PAS(S)E said that the legislative amendments were proposed with a view to striking a proper balance between the need to control vice activities and not inhibiting bona fide massage businesses. Nevertheless, the Administration noted members' concern.

23. Members urged the Administration to consider relaxing the control of establishments providing full-body massage to customers of opposite sex and to revise the definition of full-body massage to cover that part of a customer's body below the shoulders and above the knees. PAS(S)E agreed to consider.

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III. Date of next meeting

24. Members agreed that the next meeting would be scheduled in September 2001. Members would be informed of the date of next meeting nearer the time.

(Post-meeting note : The next meeting would be held on 28 September 2001 at 2:30 pm.)

25. There being no other business, the meeting ended at 10:25 am.

Legislative Council Secretariat

11 October 2001