

立法會
Legislative Council

Ref : CB2/BC/6/01

LC Paper No. CB(2) 1228/02-03
(These minutes have been seen by
the Administration)

**Bills Committee on
Registration of Persons (Amendment) Bill 2001**

**Minutes of meeting
held on Tuesday, 28 January 2003 at 10:45 am
in the Chamber of the Legislative Council Building**

Members present : Hon IP Kwok-him, JP (Chairman)
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Howard YOUNG, JP
Hon LAU Kong-wah
Hon Miriam LAU Kin-ye, JP
Hon Emily LAU Wai-hing, JP
Hon Henry WU King-cheong, BBS, JP
Hon LEUNG Fu-wah, MH, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Dr Hon David CHU Yu-lin, JP
Hon James TO Kun-sun
Hon SIN Chung-kai

Public Officers attending : Mr Michael WONG
Deputy Secretary
Security Bureau

Mr Alan CHU
Principal Assistant Secretary
Security Bureau

Ms Anne TENG
Assistant Secretary
Security Bureau

Mr Michael STONE
E-government Coordinator
Commerce, Industry and Technology Bureau

Miss Sabrina LAW
Assistant Secretary
Commerce, Industry and Technology Bureau

Mr Gilbert MO
Deputy Law Draftsman
Department of Justice

Mr WONG Tat-po
Deputy Director
Immigration Department

Mr Raymond WONG Wai-man
Assistant Director
Immigration Department

Mr TSOI Hon-kuen
Assistant Director
Immigration Department

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

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr Raymond LAM
Senior Assistant Secretary (2) 5

I. Confirmation of minutes of meeting held on 7 January 2003

The minutes of the meeting held on 7 January 2003 were confirmed.

II. Meeting with the Administration

The Bills Committee deliberated and examined the Bill clause-by-clause (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration to provide a written response on the following -

Clause 23

- (a) To explain the difference between a forged identity card and an unlawfully altered identity card, and the difference between the offences against the possession and use of a forged identity card, making alterations to an identity card and possession and use of an unlawfully altered identity card from the prosecution viewpoint;
- (b) To explain the respective burden and standard of proof on the prosecution and the defendant regarding "without lawful authority or reasonable excuse" in the proposed regulation 12(2A);
- (c) To explain whether a lack of knowledge that the chip in a smart identity card had been tampered with would be a reasonable excuse under the proposed regulation 12(2A) and to consider spelling out clearly the element of "knowledge" in the proposed regulation;
- (d) To consider whether it was appropriate to use the term "tampering with" in the proposed description of offence for regulation 12(1A) in Schedule 2 to the Immigration Service Ordinance (Cap. 331); and

Others

- (e) To provide a paper explaining the draft Committee Stage amendments proposed by the Administration.

3. The Administration undertook to amend the proposed Regulation 12(1A) to incorporate Professor Matthew LEE's suggestion of criminalising unauthorised access to data stored in the chip of a smart identity card.

4. Ms Emily LAU suggested that the Privacy Commissioner for Personal Data (the Privacy Commissioner) be invited to a meeting of the Bills Committee to answer questions on the paper entitled "Privacy Compliance : Investigation powers conferred on the Privacy Commissioner for Personal Data" provided by the Office of the Privacy Commissioner for Personal Data. The Chairman suggested that Ms LAU might wish to seek clarification on the paper with the Privacy Commissioner direct. He added that the Privacy Commissioner could be invited to a meeting of the Bill Committee, if necessary, after such clarification.

III. Dates of subsequent meetings

5. The Bills Committee noted that further meetings had been scheduled for Tuesday, 11 February 2003 at 2:30 pm and Tuesday, 18 February 2003 at 8:30 am to continue discussion with the Administration.

6. The meeting ended at 12:40 pm.

Council Business Division 2
Legislative Council Secretariat
19 February 2003

**Proceedings of the meeting of the Bills Committee on
Registration of Persons (Amendment) Bill 2001
on Tuesday, 28 January 2003 at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000301	Chairman	Confirmation of minutes of meeting held on 7 January 2003 and relevant papers for the meeting	
000302-000521	Admin	Briefing on clause 20 of the Bill	
000522-000638	Chairman Hon LAU Kong-wah Admin	Written information on the conditions of stay imposed on a person	
000639-000917	Chairman Admin	Briefing on clause 21 of the Bill	
000918-001636	Hon LAU Kong-wah Hon Emily LAU Hon Mrs Selina CHOW Chairman Hon Miriam LAU Admin	Whether a cardholder could choose to store information such as blood type or donation of organs into the chip of his smart identity card	
001637-001745	Chairman Admin	Briefing on clause 22 of the Bill	
001746-002603	Hon Emily LAU SALA2 Chairman Hon Margaret NG Admin	Whether the term "Governor" in the Schedule to Specification of Public Offices (Cap.1 sub. leg.) should be amended as "Chief Executive"	
002604-002907	Admin	Briefing on clause 23 of the Bill	
002908-003702	Hon Miriam LAU Chairman Hon Emily LAU Admin	Difference between a forged identity card and an unlawfully altered identity card; difference between the offences against the possession and use of a forged identity card, making alterations to an identity card and possession and use of an unlawfully altered identity card from the prosecution viewpoint	Admin to explain the difference between a forged identity card and an unlawfully altered identity card, and the difference between the offences against the possession and use of a forged identity card, making alterations to an identity card and possession and use of an unlawfully altered identity card from the prosecution viewpoint

003703-005226	Hon LAU Kong-wah Hon Mrs Selina CHOW Chairman Admin	Tampering with the chip in a smart identity card and criminalising unauthorised access to data stored in the chip of a smart identity card	
005227-010023	Hon Audrey EU SALA2 Admin	Respective burden and standard of proof on the prosecution and the defendant regarding "without lawful authority or reasonable excuse" in the proposed regulation 12(2A)	Admin to explain the respective burden and standard of proof on the prosecution and the defendant regarding "without lawful authority or reasonable excuse" in the proposed regulation 12(2A)
010024-011145	Hon LAU Kong-wah Hon Emily LAU Hon Miriam LAU Chairman Hon Margaret NG Admin	Tampering with the chip in a smart identity card without knowledge; whether it was appropriate to use the term "tampering with" in the proposed description of offence for regulation 12(1A) in Schedule 2 to the Immigration Service Ordinance (Cap. 331)	Admin to consider whether it was appropriate to use the term "tampering with" in the proposed description of offence for regulation 12(1A) in Schedule 2 to the Immigration Service Ordinance (Cap. 331) and to consider spelling out clearly the element of "knowledge" in the proposed regulation
011146-012422	Hon Margaret NG Hon Mrs Selina CHOW Hon Emily LAU Chairman Admin	Burden of proof of the prosecution and the defendant regarding "without lawful authority or reasonable excuse" in the proposed regulation 12(2A); whether a lack of knowledge that the chip in a smart identity card had been tampered would be a reasonable excuse under the proposed regulation	Admin to explain whether a lack of knowledge that the chip in a smart identity card had been tampered with would be a reasonable excuse under the proposed regulation 12(2A)
012423-012543	Chairman Hon Emily LAU Hon Mrs Selina CHOW	Provision of a paper explaining the draft Committee Stage amendments proposed by the Administration	Admin to provide a paper explaining the draft Committee Stage amendments proposed by the Administration
012544-013049	Chairman Hon Emily LAU	Paper entitled "Privacy Compliance : Investigation powers conferred on the Privacy Commissioner for Personal Data" provided by the Office of the Privacy Commissioner for Personal Data and invitation to the Privacy Commissioner for Personal Data to answer questions on the paper	

013050-013234	Chairman Admin	Briefing on the Administration's paper entitled "Provision of Registration of Persons Records" (LC Paper No. CB(2) 824/02-03(01))	
013235-013637	Hon Emily LAU Admin	Statistics on the provision of registration of persons (ROP) data to public utilities and overall statistics on provision of ROP data	
013637-013743	Hon Emily LAU Admin	Requests from private law firms for disclosure of ROP records	
013744-013840	Hon Emily LAU Admin	Checking of identity cards on the streets	
013841-014538	Hon Audrey EU Admin	Requests from individuals for disclosure of ROP records, requests from Consulates for disclosure of ROP records and mechanism for preventing abuse	
014539-014813	Hon Audrey EU Chairman Hon Emily LAU	Mechanism for processing requests for provision of ROP data	
014814-014935	Chairman	Provision of the Administration's papers for the next meeting	

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

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