

立法會
Legislative Council

LC Paper No. CB(2) 791/02-03

(These minutes have been seen
by the Administration)

Ref : CB2/BC/6/01

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

**Minutes of meeting
held on Tuesday, 17 December 2002 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon IP Kwok-him, JP (Chairman)
Dr Hon David CHU Yu-lin, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon SIN Chung-kai
Hon Howard YOUNG, JP
Hon LAU Kong-wah
Hon Miriam LAU Kin-ye, JP
Hon Emily LAU Wai-hing, JP
Hon LEUNG Fu-wah, MH, JP
Hon Audrey EU Yuet-mee, SC, JP

Member absent : Hon Henry WU King-cheong, BBS, JP

Public Officers attending : Mr Michael WONG
Deputy Secretary
Security Bureau

Mr Alan CHU
Principal Assistant Secretary
Security Bureau

Miss May CHAN
Assistant Secretary
Security Bureau

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

Ms Joyce TAM
Principal 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. Meeting with the Administration

The Bills Committee continued to examine the Bill clause-by-clause (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration -

Clause 7

(a) To explain the implications of the clause and whether it would expand or restrict the power of the Administration;

- (b) To consider setting out clearly that information appearing on an identity card should be excluded from the proposed sections 10 and 11, and setting out clearly the different meaning of "particulars" in different parts of the Bill;

Proposed section 9

- (c) To explain the mechanism for the provision of registration of persons (ROP) data by the Immigration Department (ImmD) to the Police and whether all sorts of ROP data of a person would be provided regardless of whether they were specified in the request;
- (d) To explain the factors considered by a Senior Superintendent of Police in the authorisation of the Police's requests for provision of ROP data by ImmD;
- (e) To consider the need for a subject in the proposed section 9(b) and (c), and to consider setting out the respective restriction on use of particulars in the proposed section 9 for use by ImmD, other government departments and the holder of the identity card;
- (f) To review the policy intent of the proposed section 9(b) and consider whether the proposed section should be revised to deal with requests from the public for the issue of Certificate of Registered Particulars, e.g. as evidence of change of name;
- (g) To consider the amendment proposed by Professor Matthew LEE to the proposed section 9(b);
- (h) To consider incorporating the requirement of "with the consent of the holder of the identity card" in the proposed section 9(c);
- (i) To provide the list of "any Ordinance" referred to in the proposed section 9(c);

Proposed section 10

- (j) To explain the application of the proposed section 10(c);
- (k) To consider moving Regulation 23 of the Registration of Persons Regulations (ROPR) to the principal ordinance;
- (l) To provide statistics, with a breakdown on requests authorised by the Chief Secretary for Administration (CS for A) and requests from overseas enforcement agencies, on the provision of particulars referred to in the proposed section 10(b);

Proposed section 11

- (m) To consider providing the Police's guidelines or mechanism for the destruction of ROP records after use;
- (n) To consider adding "抄錄, 除去, 複製" in the proposed section 11;
- (o) To consider whether the current drafting of the proposed section 11 reflected the Administration's intent that the expression "any person" included government officials;
- (p) To consider whether "lawful authority" would cover the written permission of CS for A, irrespective of how it was given and whether "reasonable excuse" would include the permission of CS for A given to a bona fide public officer in the proposed section 11;

Clause 17

- (q) To explain the need for the expression "in his absolute discretion" in Regulation 23 of ROPR; and
- (r) To consider amending the term "record" in the clause as "copy".

3. The Administration undertook -

- (a) To provide the draft amendments to the proposed section 10, having regard to the amendment proposed by Professor Matthew LEE which required CS for A to state the reason or reasons for giving permission; and
- (b) To provide members with a copy of the Code of Practice on Identity Card Number and Other Personal Identifiers issued by the Office of the Privacy Commissioner for Personal Data.

4. The Bills Committee agreed to seek the view of the Privacy Commissioner for Personal Data on his power under section 38 of the Personal Data (Privacy) Ordinance in the investigation of matters relating to privacy compliance.

II. Date of next meeting

5. The Bills Committee noted that the next meeting had been scheduled for Tuesday, 7 January 2003 at 10:45 am to continue discussion with the Administration.

6. There being no other business, the meeting ended at 10:55 am.

Council Business Division 2
Legislative Council Secretariat
6 January 2003

**Proceedings of the meeting of the Bills Committee on
Registration of Persons (Amendment) Bill 2001
on Wednesday, 17 December 2002 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000146	Chairman	Opening remarks	
000147 - 000834	SALA2 Chairman	Scope of privacy compliance audit in Australia and whether there were Ordinances requiring subsidiary legislation to be made in compliance with another Ordinance	
000835 - 001432	Hon Emily LAU SALA2 Admin Chairman	Privacy compliance audit of systems and power of Privacy Commissioner for Personal Data in carrying out investigations under section 38 of the Personal Data (Privacy) Ordinance (PDPO)	Clerk to seek the view of the Privacy Commissioner for Personal Data on his power under section 38 of PDPO
001433 - 001858	Chairman Admin	Briefing on clause 5 of the Bill	
001859 - 002121	Hon Emily LAU Clerk Chairman	Summary of amendments proposed by organisations/individuals to specific clauses in the Bill (LC Paper No. CB(2) 396/02-03(01))	
002122 - 002344	SALA2 Admin Chairman	Whether there was difference between "身分證" and "身份證"	
002345 - 002440	Chairman Admin	Briefing on clause 6 of the Bill.	
002441 - 002537	Chairman	Briefing on the proposed section 9 and the Administration's proposal of amending proposed section 9(b) to "enabling the verification of identity of individuals".	
002538 - 003303	Hon LAU Kong-wah Admin	Whether there was a need for a subject in the proposed section 9(b) and (c); and incorporation of the requirement of "with the consent of the holder of the identity card" in the proposed section 9(c)	Admin to consider the need for a subject in the proposed section 9(b) and (c), and incorporation of the requirement of "with the consent of the holder of the identity card" in the proposed section 9(c)
003304 - 003447	Hon SIN Chung-kai Admin	Setting out the respective restrictions on use of particulars in the proposed section 9 for use by the Immigration Department (ImmD), other government departments and the holder of the identity card;	Admin to consider setting out the respective restrictions on use of particulars in the proposed section 9

003448 - 003616	Hon Emily LAU Admin	Amendment proposed by Professor Matthew LEE to the proposed section 9(b)	Admin to consider the amendment proposed by Professor Matthew LEE to the proposed section 9(b)
003617 - 003733	Admin	Restrictions on the use of particulars by the holder of identity card	
003734 - 004712	Hon Emily LAU Admin SALA2	Administration's proposed amendments to the proposed section 9(b)	
004713 - 005259	Hon James TO Admin	Implications of clause 7 and whether it would expand or restrict the power of the Administration	Admin to explain the implications of the clause
005300 - 010615	Hon Miriam LAU LAU Kong-wah Admin SALA2 Hon Mrs Selina CHOW	Policy intent of the proposed section 9(b) and personal use of registration of persons (ROP) data by holder of the identity card, such as use for change of name	Admin to review the policy intent of the proposed section 9(b) and consider whether the proposed section should be revised to avoid affecting requests for the issue of Certificate of Registered Particulars by the public; and to provide members with a copy of the Code of Practice on Identity Card Number and Other Personal Identifiers
010616 - 011620	Hon James TO Hon LAU Kong-wah Hon SIN Chung-kai Admin Chairman	Mechanism for the provision of ROP data by ImmD to the Police and whether all sorts of ROP data of a person would be provided regardless of whether they were specified in the request	Admin to explain the mechanism and the factors considered by a Senior Superintendent of Police in the authorisation of requests
011621 - 011806	Hon James TO Admin	List of "any Ordinance" referred to in the proposed section 9(c)	Admin to provide the list of "any other Ordinance" referred to in the proposed section 9(c)
011807 - 012030	Admin	Briefing on the proposed section 10	
012031 - 012559	Hon James TO Hon Miriam LAU Admin Chairman	Suggestion of moving Regulation 23 of the Registration of Persons Regulations (ROPR) to the principal ordinance	Admin to consider the suggestion

012600 - 012746	Hon James TO Admin	Need for the expression "in his absolute discretion" in Regulation 23 of ROPR	Admin to explain the need for the expression
012747 - 013006	Hon James TO Admin	Matters certified under Regulation 23(a) of ROPR	
013007 - 013324	Hon Miriam LAU Hon James TO Admin	Suggestion of amending the term "record" in the clause as "copy"	Admin to consider the suggestion
013325 - 013354	Hon Emily LAU Admin	Amendment proposed by Professor Matthew LEE to the proposed section 10	Admin to provide the draft amendments to the proposed section 10, having regard to the amendment proposed by Professor Matthew LEE
013355 - 013442	Hon Margaret NG Chairman Admin	Amending the term "record" in the clause as "copy"	
013443 - 013529	Admin	Briefing on the proposed section 11	
013530 - 013713	Hon James TO Admin	Provision of statistics, with a breakdown on requests authorised by the Chief Secretary for Administration and requests from overseas enforcement agencies, on the provision of particulars referred to in the proposed section 10(b)	Admin to provide the requested statistics
013714 - 013825	Hon James TO Admin	Application of the proposed section 10(c)	Admin to explain the application of the proposed section
013826 - 014016	Hon LAU Kong-wah Admin	Suggestion of "抄錄, 除去, 複製" in the proposed section 11 and whether there was a need for incorporating a requirement for intent in the proposed section 11	Admin to consider the suggestion
014017 - 014025	Hon SIN Chung-kai, Admin	Whether record was maintained on access to record of particulars	
014026 - 014453	Hon James TO Hon Emily LAU SALA2 Admin	Meaning of "any person" in the proposed section 11 and whether it covered government officials	Admin to consider whether the current drafting reflected its intent that the expression "any person" covered government officials

014454 - 014800	Hon James TO Admin	Destruction of ROP records after use	Admin to consider providing the Police's guidelines or mechanism for the destruction of ROP records after use
014801 - 015140	SALA2 Hon Emily LAU Admin	Whether "any person" in the proposed section 11 covered government officials	
015141 - 021907	Hon James TO Hon Margaret NG Hon SIN Chung-kai Hon Miriam LAU Admin SALA2 Chairman	What constituted lawful authority or reasonable excuse	Admin to consider whether "lawful authority" would cover the written permission of the Chief Secretary for Administration (CS for A), irrespective of how it was given and whether "reasonable excuse" would include the permission of CS for A given to a bona fide public officer in the proposed section 11
021908 - 022400	SALA2 Hon Miriam LAU Admin Chairman	Need for setting out clearly that information appearing on an identity card should be excluded from the proposed sections 10 and 11, and setting out clearly the different meaning of "particulars" in different parts of the Bill	Admin to consider setting out clearly that information appearing on an identity card should be excluded from the proposed sections 10 and 11, and setting out clearly the different meaning of "particulars" in different parts of the Bill
022401- 022513	Chairman Hon Emily LAU	Date of next meeting	

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

Council Business Division 2
Legislative Council Secretariat
6 January 2003

**Proceedings of the meeting of the Bills Committee on
Registration of Persons (Amendment) Bill 2001
on Tuesday, 7 January 2003 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000607	Chairman Admin	Confirmation of minutes of meeting on 17 December 2002, relevant papers for the meeting and provision of the Administration's response to outstanding issues raised by members	
000608-000716	Admin	Briefing on clause 8 of the Bill and the Administration's intention to amend "officer of the Immigration Department" as "member of the Immigration Service"	Admin to provide members with the Committee Stage amendments to clause 8 of the Bill to amend "officer of the Immigration Department" as "member of the Immigration Service"
000717-000834	Hon Howard YOUNG Admin	Coverage of "immigration assistant"	
000835-000942	Chairman Admin	Briefing on clause 9 of the Bill	
000943-001803	Hon LAU Kong-wah Hon Howard YOUNG Chairman Admin	Whether the thumb-print or index fingerprint of a person should be used in the verification of fingerprint with smart card readers	Admin to consider whether the thumb-print or index fingerprint of a person should be used in the verification of fingerprint with smart card readers
001804-001848	Chairman Admin	Briefing on the proposed Regulation 4(1)(b)(xia)	
001849-002400	Chairman Admin	Briefing on clause 10 of the Bill	
002401-005251	Hon Margaret NG Hon Howard YOUNG Hon LAU Kong-wah Hon James TO Chairman Admin	Reflecting clearly that the inclusion of information, particulars and data referred to in the proposed Regulation 4A was of a voluntary nature	Admin to consider revising the proposed Regulation 4A to reflect clearly that the inclusion of information, particulars and data referred to in the Regulation was of a voluntary nature
005252-010326	Hon James TO Hon Howard YOUNG Hon Selina CHOW Chairman Admin	Specifying the class of information that might be included for a prescribed purpose	Admin to consider revising the proposed Regulation 4A to specify the class of information that might be included for a prescribed purpose

010327-010954	SALA2 Admin	Drafting of the proposed Regulation 4A and the distinction between the proposed Regulation 4A(1)(c) and (d)	Admin to improve the drafting of the proposed Regulation 4A
010955-011330	Hon SIN Chung-kai Admin	Providing that the inclusion of information, particulars and data in an identity card or a chip referred to in the Regulation required the consent of the cardholder	Admin to consider revising the proposed Regulation 4A to such effect
011331-011410	Hon Margaret NG SALA2	Whether the proposed Schedule 5 to Registration of Persons Regulations was subsidiary legislation	
011411-011828	Hon Margaret NG	Drafting of the proposed Regulation 4A and amending it to the effect that it would not empower the Commissioner of Registration to include any information at will in an identity card or a chip, using the pretext that this was necessary for a prescribed purpose	
011829-012232	Hon James TO Admin	Setting out the purposes of inclusion of information or particulars or storage of data in an identity card or a chip in the principal ordinance or the regulation itself instead of Schedule 5	Admin to consider revising the proposed Regulation 4A to the effect that the purposes of inclusion of information or particulars or storage of data in an identity card or a chip had to be provided for in the principal ordinance or the regulation itself instead of Schedule 5
012233-013618	Hon Margaret NG Hon Miriam LAU Hon James TO Chairman Admin	Drafting of the proposed Regulation 4A and whether it would empower the Commissioner of Registration or any person acting pursuant to a permission given by the Commissioner to include any information at will in an identity card or a chip, using the pretext that this was necessary for a prescribed purpose; Providing that the inclusion of information, particulars and data in an identity card or a chip referred to in the Regulation required the consent of the cardholder	Admin to consider revising the proposed Regulation 4A to the effect that it would not empower the Commissioner of Registration to include any information at will in an identity card or a chip, using the pretext that this would be necessary for a prescribed purpose
013619-013710	Hon James TO	Setting out the purposes of inclusion of information or particulars or storage of data in an identity card or a chip in the principal ordinance or the regulation itself instead of Schedule 5	
013711-013805	Chairman Admin	Briefing on clause 11 of the Bill	
013806-013944	Hon Margaret NG Admin	Meaning of "record" in Regulation 8(1)	
013945-014334	Chairman Admin	Dates of subsequent meetings	

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Council Business Division 2
Legislative Council Secretariat
24 January 2003