

立法會  
*Legislative Council*

LC Paper No. CB(2)2228/02-03

(These minutes have been  
seen by the Administration)

Ref : CB2/BC/11/01

**Bills Committee on  
Evidence (Miscellaneous Amendments) Bill 2002**

**Minutes of the fifth meeting  
held on Tuesday, 13 May 2003 at 10:45 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)  
Hon Cyd HO Sau-lan  
Hon James TO Kun-sun  
Hon Miriam LAU Kin-ye, JP  
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon CHAN Yuen-han, JP  
Hon Andrew WONG Wang-fat, JP  
Hon Jasper TSANG Yok-sing, GBS, JP
- Public Officers attending** : Mr Stephen WONG  
Deputy Solicitor General
- Mr Patrick CHEUNG  
Senior Assistant Director of Public Prosecutions
- Mr Wayne WALSH  
Deputy Principal Government Counsel, International  
Law Division
- Miss Agnes CHEUNG  
Senior Government Counsel, Legal Policy Division
- Mr Llewellyn MUI  
Senior Government Counsel, Legal Policy Division

Mr Peter KAM  
Senior Government Counsel (Acting)  
Legal Policy Division

Miss Selina LAU  
Government Counsel, Law Drafting Division

**Clerk in attendance** : Mrs Percy MA  
Chief Assistant Secretary (2)3

**Staff in attendance** : Miss Kitty CHENG  
Assistant Legal Adviser 5

Mr Paul WOO  
Senior Assistant Secretary (2)3

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**I. Confirmation of minutes of meetings**  
(LC Paper Nos. CB(2)1846 and 2051/02-03)

The minutes of the meetings on 10 and 25 April 2003 were confirmed.

**II. Meeting with the Administration**  
(LC Paper Nos. CB(2)2042/02-03(01) - (06) and 2063/02-03))

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Draft Committee Stage amendments (CSAs) proposed by the Administration  
(LC Paper No. CB(2)2042/02-03(05))

3. The Bills Committee considered the CSAs proposed by the Administration in the light of the issues discussed at previous meetings. The Bills Committee in principle accepted the CSAs proposed by the Administration.

4. Members agreed to provide the proposed CSAs and the explanatory notes for the CSAs to the Hong Kong Law Society and the Bar Association of Hong Kong for their information.

Action

Clause by clause examination of the Bill

5. The Bills Committee completed clause by clause examination of the Bill (both English and Chinese versions).

Follow up actions required of the Administration

6. The Bills Committee requested the Administration to provide written response to the following issues -

*Part II of the Bill*

*Clause 16*

*Proposed section 79I of CPO*

(a) A member had pointed out that it would be difficult for the court to determine whether the evidence of the witness could "more" conveniently be given in Hong Kong, and proposed to delete the word "more" in proposed new section 79I(2)(b). The Administration was requested to consider the proposal, having regard to the expression in similar legislation in other jurisdictions;

*Proposed section 79J of CPO*

(b) A member had enquired whether it was necessary to include the phrase "for all purposes in connection with the proceedings concerned" in proposed section 79J(1). The Administration was requested to explain the legislative intent and the implications of removing the phrase from the proposed section;

*Proposed section 79L of CPO*

(c) The Administration was requested to provide the draft rules to be made by the Chief Justice under proposed section 79L in respect of the giving of evidence by way of a live television link for the Bills Committee's consideration;

*Clause 11*

*Section 74 of the Evidence Ordinance*

(d) The Administration was requested to review the drafting of the English and Chinese versions of the definition of "live television link" to achieve consistency, in the light of any drafting practice on the phrase "vice versa". A member had suggested to amend the English version to read "..., audio visual facilities that enable persons at the two places to see and hear each other at the

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respective places at the same time.";

*Clause 12*

*Section 76 of the Evidence Ordinance*

- (e) The Administration was requested to consider a member's suggestion to amend the Chinese version of the heading of section 76 to "香港法院實現協助申請的權力"; and

Others

- (f) The Administration was requested to review the Chinese translation of the terms "person charged" and "accused" in the Bill to achieve consistency.

*(Post-meeting note: The Administration's written response to the issues raised was circulated vide LC Paper No.CB(2)2201/02-03(01). A set of draft Committee Stage amendments (5<sup>th</sup> draft) to be moved by the Administration was circulated vide CB(2)2201/02-03(02)).*

**III. Date of next meeting**

7. The next meeting was scheduled for 29 May 2003 at 8:30 am.
8. The meeting ended at 12:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
27 May 2003

## Annex

### **Proceedings of the 5th meeting of the Bills Committee on Evidence (Miscellaneous Amendments) Bill 2002 Meeting on Tuesday, 13 May 2003 at 10:45 am in Conference Room A of the Legislative Council Building**

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
000000 - 000130	Chairman	Confirmation of minutes of meetings on 10 and 25 April 2003 (LC Paper Nos. CB(2)1846 and 2051/02-03).	
000131 - 000517	Administration/ Chairman	Admin's written response to issues raised at the meeting on 25 April 2003 on Part I of the Bill (LC Paper No. CB(2)2042/02-03(01)).	
000518 - 000956	Ms Audrey EU/ Administration/ Chairman/ ALA5	Clarification on when and how many times could the spouse of an accused apply for exemption from giving evidence under proposed section 57A(1) of the Criminal Procedure Ordinance (CPO).	
000957 - 001620	Chairman/ Administration/ ALA5/ Ms Cyd HO	Marked-up copy of the Bill with draft Committee Stage amendments (CSAs) proposed by Admin and explanatory notes for the CSAs (LC Paper Nos. CB(2)2063/02-03(01) and 2042/02-03(06)).  CSAs on proposed sections 57 and 57A of CPO (clause 4 of the Bill).	
001621 - 002052	Ms Audrey EU/ Chairman	Consultation with the Law Society and Bar Association on CSAs proposed by Admin.	Clerk to provide the draft CSAs to the two legal professional bodies for comments.
002053 - 002422	Chairman/ Administration	Admin's written response to issues raised at the meeting on 25 April 2003 on Part II of the Bill (LC Paper No. CB(2)2042/02-03(04)).	
002423 - 003222	Mr James TO/ Administration/ Chairman	Draft CSAs to proposed section 79I(2) of CPO (clause 16).  Continuation of clause by clause examination of the English version of the Bill, starting from clause 11.	
003223 - 004100	Mr James TO/ Administration/ Chairman	Draft CSAs to proposed section 79I(2) of CPO to specify additional criteria of which the court must be satisfied before giving permission under proposed section 79I(1) (clause 16).	

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
004101 - 005922	Mr James TO/ Administration/ Ms Cyd HO/ Chairman	Rules to be made by Chief Justice under proposed section 79L of CPO.  Inclusion of a provision similar to Rule 23B(10) of the UK Crown Court Rules in the Rules to be made under proposed section 79L.	Admin to provide the draft Rules for Bills Committee's reference.
005923 - 010833	Mr James TO/ Administration/ Chairman	The threshold of proposed section 79I(2)(b) of CPO relating to the granting of permission by the court under proposed section 79I(1).	
010834 - 011640	Mr James TO/ Chairman/ Administration/ Ms Audrey EU	Proposed section 79J of CPO.  Legislative intent of including the phrase "for all purposes in connection with the proceedings concerned" in proposed section 79J(1).	Admin to explain the implications of deleting the phrase.
011641 - 012144	Chairman/ Administration	Clauses 17 to 19 of the Bill.  CSA relating to clause 19(2).	
012145 - 012324	Administration	Proposed new clauses 20, 23 and 24.	
012325 - 012700	Chairman/ ALA5	Clause by clause examination of the Chinese version of the Bill.	
012701 - 012858	Ms Miriam LAU/ Administration/ Chairman	Chinese translation of the terms "person charged" and "accused" used in the Bill.	Admin to review the translation to achieve consistency.
012859 - 012917	Ms Audrey EU/ Administration	Chinese translation of the word "compellable".	
012918 - 013220	Chairman/ ALA5/ Administration/ Ms Miriam LAU	Drafting of the English and Chinese versions of the definition of "live television link" in section 74 of the Evidence Ordinance, in the light of any drafting practice on the term "vice versa" (clause 11).	Admin to review the drafting.
013221 - 013621	Chairman	Examination of the Chinese version of the Bill from clause 12 onwards.	
013622 - 013754	Ms Miriam LAU/ Chairman/ Administration	Proposal to review and amend the Chinese version of the heading of section 76 of the Evidence Ordinance.	Admin to consider the proposal.
013755 - 014039	Chairman/ Ms Audrey EU/ Administration	Proposal to delete the word "more" in proposed section 79I(2)(b), having regard to the expression in similar legislation in other jurisdictions (clause 16).	Admin consider the proposal.

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
014040 - 014154	Chairman/ Ms Miriam 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  
27 May 2003