

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

**Bills Committee on
National Security (Legislative Provisions) Bill**

**Minutes of meeting
held on Saturday, 24 May 2003 at 9:00 am
in the Chamber of the Legislative Council Building**

Members present : Hon IP Kwok-him, JP (Chairman)
Hon Ambrose LAU Hon-chuen, GBS, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon CHAN Kam-lam, JP
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung, BBS
Hon LAU Kong-wah
Hon Miriam LAU Kin-yee, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon TAM Yiu-chung, GBS, JP

Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

**Members
absent** : Hon Cyd HO Sau-lan
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming, JP
Hon Bernard CHAN, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon LAU Chin-shek, JP
Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon LAW Chi-kwong, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon Henry WU King-cheong, BBS, JP
Hon WONG Sing-chi
Hon LAU Ping-cheung

**Public Officers :
attending** Mrs Regina IP, GBS, JP
Secretary for Security

Mr Timothy TONG, JP
Permanent Secretary for Security (Acting)

Mr Bob ALLCOCK, BBS, JP
Solicitor General

Mr Gilbert MO
Deputy Law Draftsman

Mr James O'NEIL
Deputy Solicitor General

Ms Winnie NG
Administrative Assistant to Secretary for Security

Mr Johann WONG
Principal Assistant Secretary for Security

Miss Adeline WAN
Senior Government Counsel

Ms Francoise LAM
Senior Government Counsel

Mr Hubert LAW
Assistant Secretary for Security

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

Staff in attendance : Mr Jimmy MA, JP
Legal Adviser

Ms Bernice WONG
Assistant Legal Adviser 1

Mr Raymond LAM
Senior Assistant Secretary (2)5

I. Meeting with the Administration

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

2. The Bills Committee requested the Administration to provide a written response to the following issues raised and information sought by members -

Issues relating to the Official Secrets Ordinance

- (a) to consider providing explicitly in section 13 of the Official Secrets Ordinance (OSO) that the section referred to a member of the security and intelligence services of the Hong Kong Special Administrative Region;
- (b) to explain whether new section 16A(1) of OSO covered information relating to the work or activities of the Ministry of State Security in Hong Kong;

- (c) to provide the relevant parts of the Review of Commonwealth Criminal Law - Fifth Interim Report on the Australian equivalent of section 3(2) of OSO;
- (d) to explain the legal effect of sections 5 and 6 of OSO, especially whether the expression "official document" in section 6 of OSO had the same meaning as that in section 5 of OSO;

Issues relating to the proscription of local organizations

- (e) to explain how the assets of a proscribed local organization were to be dealt with;
- (f) to provide information on whether there were references in existing legislation to the expression "Central Authorities";
- (g) to consider whether there was a need to provide for the proscription of a local organization subordinate to an organization proscribed in Macau;
- (h) to explain why the Secretary for Security (S for S) should be given the choice of proscribing a society under section 8 or new section 8A of the Societies Ordinance (SO);
- (i) to explain whether the proscription of local organizations under new section 8A(2)(c) of SO was consistent with human rights protection;
- (j) to explain how new section 8A(2)(c) of SO would operate, and to provide examples to illustrate the circumstances falling outside new section 8A(2)(a) and (b) but within new section 8A(2)(c);
- (k) to consider deleting new section 8A(2)(c) of SO;
- (l) to advise on the Administration's position regarding the suggestion in the submission from Mr Michael BLANCHFLOWER (Submission No. 81) that, in relation to new section 8E of SO, the rules for appeals against S for S's decision to proscribe an organization should be made by the Chief Executive in Council;
- (m) to advise whether there were precedents for the executive authorities to make rules to provide for court procedure; and

Others

- (n) to explain whether the passage by the Legislative Council (LegCo) of a bill which amended certain provisions of a piece of legislation implied

that LegCo also endorsed other provisions of the relevant legislation not amended by the bill.

3. Miss Margaret NG protested that although many issues relating to previous study areas were still to be raised, discussions on the study area on proscription of local organizations had already commenced. The Chairman said that as there were different views among members on the pace of studying the Bill, members who had finished examining a study area might wish to proceed to the next study area. He stressed that he would not prohibit any member from asking questions on previous study areas.

4. The Bills Committee agreed that a verbatim record on the Administration's responses to questions raised by Mr TSANG Yok-sing and Mr Albert HO concerning the application of new section 8A(2)(a), (b) and (c) of SO should be produced.

5. The meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
11 June 2003

**Proceedings of the meeting of the Bills Committee on
National Security (Legislative Provisions) Bill
on Saturday, 24 May 2003 at 9:00 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000203	Chairman	Opening remarks	
000204-001348	Hon LAU Kong-wah Admin	Why the proscription of a local organization under new section 8A(2)(c) of the Societies Ordinance (SO) required a certificate referred to in new section 8A(3) of SO; whether it was difficult to prove that a local organization was subordinate to a Mainland organization; whether there was a need for the term "substantial" in new section 8A(5)(h) of SO	
001349-002823	Hon NG Leung-sing Admin Chairman LA Admin	Whether the expression "感到受屈" in new section 8D(1) of SO was the appropriate Chinese counterpart of "aggrieved"; whether the "aggrieved" test was subjective or objective; why an appeal against proscription was to be lodged within 30 days after the proscription took effect; whether it was difficult to determine whether a person was a member of a proscribed organization; whether rules for appeals should be made by the Chief Justice	
002824-004207	Hon James TO Admin Chairman	Whether the expression "security and intelligence services" covered those in the Mainland; meaning of section 13(1)(b) of the Official Secrets Ordinance (OSO); meaning of "persons in support of them" in section 12(7) of OSO; whether new section 16A(1) of OSO covered information relating to	Admin to consider providing explicitly in section 13 of OSO that the section referred to a member of the security and intelligence services of the Hong Kong Special Administrative Region (HKSAR), to explain whether new

Time marker	Speaker	Subject(s)	Action Required
		the work or activities of the Ministry of State Security in Hong Kong	section 16A(1) of OSO covered information relating to the work or activities of the Ministry of State Security in Hong Kong
004208-004839	Hon Martin LEE Admin	Whether BL empowered HKSAR to enact laws with extra-territorial effect	
004840-005930	Hon Albert HO Admin	Democratic Party's position on new section 8A of SO; appeal mechanism against proscription	
005931-010650	Hon CHAN Kam-lam Admin	Whether a person who donated money to an organization without knowing that it had been proscribed would be caught by new section 8C(1)(e) of SO; whether the requirements in new section 8B(3)(d) of SO would provide sufficient publicity	
010651-012811	Hon Margaret NG Chairman Admin	Pace of studying the Bill; whether the passage by the Legislative Council (LegCo) of a Bill which amended certain provisions of a piece of legislation implied that LegCo also endorsed other provisions of the relevant legislation not amended by the Bill; whether section 3(2) of OSO was broad and in contravention of human rights; whether section 6 of OSO was broad; legal effect of sections 5 and 6 of OSO	Admin to explain whether the passage by LegCo of a bill which amended certain provisions of a piece of legislation implied that LegCo also endorsed other provisions of the relevant legislation not amended by the bill, to provide the relevant parts of the Review of Commonwealth Criminal Law - Fifth Interim Report, to explain the legal effect of sections 5 and 6 of OSO, especially whether the term "official document" in section 6 of OSO had the same meaning as that in section 5 of OSO
012812-014053	Hon LEUNG Fu-wah Admin Chairman	Whether new section 8A(5)(h)(i) of SO could deal with situations where a local organization provided	

Time marker	Speaker	Subject(s)	Action Required
		substantial financial support to a Mainland organization; whether new section 8A(5)(f)(i) of SO covered organizations registered under the Companies Ordinance; how the assets of a proscribed local organization were to be dealt with	
[Break]			
015511-021002	Chairman Hon Audrey EU Admin	Whether there were references in existing legislation to the term "Central Authorities"; whether there should be a definition for the term "Central Authorities" in new section 8A of SO and section 16A of OSO; whether there had been any society prohibited from operation on the ground of national security; whether there was a need for new section 8A(2)(c) of SO	Admin to provide information on whether there were references in existing legislation to the term "Central Authorities"
021003-021756	Hon CHEUNG Man-kwong Admin	Whether new section 8A(2)(c) of SO should be deleted	
021757-022600	Hon Jasper TSANG Admin Hon CHEUNG Man-kwong Chairman	Whether there were situations which could be dealt with under new section 8A(2)(c) of SO but not under new section 8A(2)(a) or (b) of SO	
022601-024047	Hon LEE Cheuk-yan Admin LA Hon Miriam LAU	Whether new section 8A of SO was a means for suppressing the public; whether the new section was in contravention of freedom of association and international human rights covenants; whether the scope of new section 8A(2)(b) of SO was broad	
024048-024414	Hon Miriam LAU Admin	Whether there were situations where an organization caught by new section 8A(2)(a) or (b) of SO would not be proscribed	
024415-025304	Hon LAU Kong-wah Admin	Whether there was a need to provide for the proscription of a local organization subordinate to an organization proscribed in	Admin to consider whether there was a need to provide for the proscription of a local

Time marker	Speaker	Subject(s)	Action Required
		Macau; Chinese counterpart of the term subordinate in existing provisions of SO and new section 8A(2)(c) of SO	organization subordinate to an organization proscribed in Macau
025305-030558	Hon James TO Admin LA	Difference between section 8 and new section 8A of SO	
030559-032009	Hon Albert HO LA Admin Chairman	How the assets of a proscribed local organization were to be dealt with; whether new section 8A(2)(b) of SO was only directed at acts within Hong Kong; whether there were situations which could be dealt with under new section 8A(2)(c) of SO but not under new section 8A(2)(a) or (b) of SO; how new section 8A(2)(c) of SO would operate; circumstances falling outside new section 8A(2)(a) and (b) but within new section 8A(2)(c) of SO	Admin to explain how the assets of a proscribed local organization were to be dealt with; to explain how new section 8A(2)(c) of SO would operate, and to provide examples to illustrate the circumstances falling outside new section 8A(2)(a) and (b) but within new section 8A(2)(c) of SO
032010-033941	Hon Margaret NG Admin Chairman LA Hon LAU Kong-wah	Why the Secretary for Security (S for S) should be given the choice of proscribing a society under section 8 or new section 8A of SO; whether the proscription of local organizations under new section 8A(2)(c) of SO was consistent with human rights protection; deleting new section 8A(2)(c) of SO; Administration's position regarding the suggestion in the submission from Mr Michael BLANCHFLOWER (Submission No. 81) that, in relation to new section 8E of SO, the rules for appeals against S for S's decision to proscribe an organization should be made by the Chief Executive in Council; whether there were precedents for the executive authorities to make rules to provide for court procedure	Admin to provide a response
033942-034159	Chairman Hon Albert HO Hon CHEUNG Man-kwong	Verbatim record of the Administration's responses to questions raised by Hon	Clerk to follow up

Time marker	Speaker	Subject(s)	Action Required
	Clerk	TSANG Yok-sing and Hon Albert HO concerning the application of new section 8A(2)(a), (b) and (c) of SO	

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