

立法會
Legislative Council

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LC Paper No. CB(2)2509/02-03

(These minutes have been
seen by the Administration)

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

**Minutes of meeting
held on Saturday, 31 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 Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming, 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 Bernard CHAN, JP
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 Emily LAU Wai-hing, JP
Hon CHOY So-yuk

Hon SZETO Wah
Hon TAM Yiu-chung, GBS, JP
Hon Henry WU King-cheong, BBS, 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 Martin LEE Chu-ming, SC, 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 Andrew CHENG Kar-foo
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 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 Johann WONG
Principal Assistant Secretary for Security

Mr James O'NEIL
Deputy Solicitor General

Ms Winnie NG
Administrative Assistant to 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 in relation to proscription of local organizations -

- (a) to provide information on the relevant overseas legislation and cases relating to special procedures;
- (b) to provide information on the functions of a special advocate in the United Kingdom;
- (c) in relation to the "legal practitioner" referred to in new section 8E(4)(a) and (b) of the Societies Ordinance (SO), to explain -

- (i) what such a legal practitioner could and could not do;
 - (ii) how such a legal practitioner would be selected, and whether an appellant could appoint a legal practitioner of his choice;
 - (d) to consider deleting "國家安全利益" in new section 8A(1) and substituting "國家安全"; and
 - (e) to provide information on claims for damages from appellants who succeeded in their appeals against proscription.
3. Secretary for Security informed members that the Administration would propose amendments to section 8 of SO so that the proscription of a local organization on the ground of national security would be dealt with under new section 8A but not section 8 of SO.
4. The meeting ended at 12:30 pm.

Council Business Division 2
Legislative Council Secretariat
17 June 2003

**Proceedings of the meeting of the
Bills Committee on National Security (Legislative Provisions) Bill
on Saturday, 31 May 2003 at 9:00 am
in Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 – 000215	Chairman	Opening remarks	
000216 – 001908	Hon Margaret NG Admin	Whether the arrangements under new section 8E(3)(b) were fair to appellants; whether similar arrangements were found in other jurisdictions	Admin to provide information on the relevant overseas legislation relating to special procedures
001909 – 002624	Hon LAU Kong-wah Admin	Whether the appeal mechanisms in section 8 and new section 8A of the Societies Ordinance (SO) should be the same; when Committee Stage amendments to be proposed by the Administration would be available	
002625 – 005017	Hon Albert HO Admin Chairman	Whether there was a need for provisions relating to proscription in the Bill; whether the court should be allowed to hold appeal proceedings in the absence of the appellant and any legal representative appointed by him; whether it was adequate to provide an appellant with a summary of any evidence taken in his absence	
005018 – 011302	Hon James TO Admin	Whether it was adequate to provide an appellant with a summary of any evidence taken in his absence; whether such an arrangement was in contravention of human rights	

011303 – 012837	Hon LEE Cheuk-yam Admin LA	Whether the special procedures for appeals against proscription were justified; whether proscription by administrative means was found in other jurisdictions; whether the acts in new section 8C(1) of SO should be an offence before an appeal on the proscription of a local organization was concluded	
012838 – 014459	Hon Audrey EU Admin	Role and function of a "legal practitioner" referred to in to new section 8E(4)(a) and (b) of SO; how such a legal practitioner was to be selected; whether there was a need for the special procedures for appeals against proscription	Admin to provide information on the functions of a special advocate in the United Kingdom
[Break]			
015617 – 021118	Hon Audrey EU Admin	Role and function of a "legal practitioner" referred to in to new section 8E(4)(a) and (b) of SO; how such a person was to be selected; whether an appellant could appoint a legal practitioner of his choice; comparison of a judicial review and the proposed special procedures for appeal against proscription	Admin to explain, in relation to the "legal practitioner" referred to in new section 8E(4)(a) and (b) of SO, what such a legal practitioner could and could not do, how such a legal practitioner would be selected, and whether an appellant could appoint a legal practitioner of his choice
021119 – 021458	Hon Howard YOUNG Admin	Scope of and need for new section 8A(2)(c) of SO	
021459 – 023226	Hon Emily LAU Admin Chairman LA	Whether the provisions in new section 8A(2)(c) of SO was consistent with Article 4 of the Basic Law (BL4) and the "one country, two systems" principle; deleting "國家安全利益" in new section 8A(1) and substituting "國家安全"	Admin to consider deleting "國家安全利益" in new section 8A(1) and substituting "國家安全"

023227 – 024930	Hon CHEUNG Man-kwong Admin	Whether the proposed special procedures for appeals against proscription were in contravention of BL35; whether the court should be allowed to hold appeal proceedings in the absence of the appellant and any legal representative appointed by him	
024931 – 025340	Hon Kenneth TING Admin	Meaning of "direction or control" in new section 8A(5)(h)(ii) of SO	
025341 – 030655	Hon Miriam LAU Hon Margaret NG Admin LA	Information on the relevant overseas legislation and cases relating to special procedures	Admin to provide a response
030656 – 030836	Hon HUI Cheung-ching Admin	Meaning of "substantial" in new section 8A(5)(h)(i) of SO	
030837 – 031413	Hon NG Leung-sing Admin Chairman	Information on claims for damages from appellants who succeeded in their appeals against proscription	Admin to provide a response
031414 – 032629	Hon Margaret NG Admin	Whether the proposed special procedures for appeals against proscription were justified; whether it would be appropriate for the Chief Executive in Council to make regulations governing the conduct of special appeal procedures	
032630 – 032754	Chairman Hon Albert HO Admin	Provision of CSAs to be proposed by the Administration and the Administration's response to outstanding issues raised by members	