立法會
Legislative Council

LC Paper No. CB(2) 2762/02-03
(These minutes have been seen by the Administration)

Ref : CB2/BC/5/02

Bills Committee on
National Security (Legislative Provisions) Bill

Minutes of meeting
held on Tuesday, 3 June 2003 at 2:30 pm
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 Cyd HO Sau-lan
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 Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon LEUNG Yiu-chung
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 LAU Wong-fat, GBS, JP
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
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

Members: Hon Martin LEE Chu-ming, SC, JP
absent
Hon Margaret NG
Hon James TO Kun-sun
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon LAU Chin-shek, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon LAW Chi-kwong, JP
Hon Henry WU King-cheong, BBS, JP
Hon WONG Sing-chi

Public Officers: Mrs Regina IP, GBS, JP
attending
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
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 by members:

   Committee Stage amendments to the Bill proposed by the Administration

   Enforcement to be consistent with the Basic Law

   (a) to consider the need to include Article 87 of the Basic Law in the provisions requiring enforcement to be consistent with Chapter III of the Basic Law in the proposed section 18A of the Crimes Ordinance (CO), proposed section 1A of the Official Secrets Ordinance and proposed section 2A of the Societies Ordinance (SO);

   Treason

   (b) to review the drafting of new section 2(1)(c) of CO in relation to the term "藉著";
Sedition

c) to consider improving the drafting of new sections 9A(1) and 9C(1) of CO in relation to the terms "任何人", "他人", "另一人" and "某人";

d) to consider revising the time limit for prosecution in new section 9C(3) of CO to a period between six months and 3 years;

Proscription of local organizations

e) to review the need for the regulations and rules to provide for the admissibility of evidence as reflected in new section 8D(6) of SO; and

Investigation power

f) to consider the need to amend "reasonably believes" in new section 18B of CO to "reasonably suspects".

3. The Bills Committee requested the Legal Adviser to advise generally on the power to make regulations and rules for appeals under new sections 8E and 8F of SO.

4. The Administration informed members that the term "煽惑" before "進行公眾暴亂" in the proposed Committee Stage amendments (CSAs) to new section 9A(1) of CO should read "慫恿".

5. Secretary for Security (S for S) stressed that the enactment of new section 8A(2)(c) of SO would not lead to the introduction of Mainland laws or national security concepts into Hong Kong. Even where a Mainland organization was prohibited in the Mainland on national security grounds, whether a local organization subordinate to that Mainland organization would be proscribed would be based on the laws of Hong Kong, the definition of "national security" in the laws of Hong Kong, common law principles, the human rights standards as applied to Hong Kong and the circumstances of each case.

6. Ms Emily LAU suggested that the Bills Committee should hold meetings to receive the views of the public on the CSAs proposed by the Administration. As there were divided views among members, a vote was taken on the suggestion. Six members voted in favour of the suggestion while 12 members voted against.

7. The Bills Committee agreed that individuals and organizations who had expressed views on the Bill to the Bills Committee be invited to give written views, if any, on the CSAs proposed by the Administration.
8. The Bills Committee agreed that a verbatim record on the Administration's responses to questions raised by Mr CHEUNG Man-kwong at the meeting on 31 May 2003 on the drawbacks of the proposed proscription of local organizations should be prepared.

9. S for S said that the Administration hoped that the Bills Committee would complete scrutiny of the Bill within the following two weeks, so that the Second Reading debate on the Bill could resume at the Council meeting on 9 July 2003.

10. The meeting ended at 6:35 pm.

Council Business Division 2
Legislative Council Secretariat
4 July 2003
# Proceedings of the meeting of the Bills Committee on National Security (Legislative Provisions) Bill on Tuesday, 3 June 2003 at 2:30 pm in the Chamber of the Legislative Council Building

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<th>Subject(s)</th>
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<tr>
<td>000000 - 000148</td>
<td>Chairman</td>
<td>Opening remarks</td>
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<tr>
<td>000149 – 003454</td>
<td>Admin Chairman Hon CHEUNG Man-kwong Hon Emily LAU Hon LAU Kong-wah Hon LEUNG Fu-wah</td>
<td>Briefing on the preliminary draft of Committee Stage amendments (CSAs) (3 June 2003) tabled by the Administration</td>
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<tr>
<td>003455 - 004004</td>
<td>Hon MA Fung-kwok Admin Chairman</td>
<td>Legal effect of the term &quot;intentionally&quot; in new section 9A(1) of the Crimes Ordinance (CO)</td>
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<td>004005 - 004503</td>
<td>Hon Raymond HO Admin Chairman</td>
<td>Chinese counterpart of the term &quot;likely&quot; in new sections 9A and 9C of CO; Chinese counterpart of the term &quot;violent public disorder&quot; in new section 9A of CO</td>
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<td>004504 - 011842</td>
<td>Hon Audrey EU LA Admin</td>
<td>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 rules made under new section 8F of the Societies Ordinance (SO) would be subject to regulations made under new section 8E of SO; whether new section 8E of SO should be enacted before the draft regulations to be made under the section were provided to the Bills Committee; whether there was a need to include Article 87 of the Basic Law (BL87) in the provisions requiring enforcement to be consistent with Chapter III of BL in the proposed section 18A of CO, proposed section 1A of the Official Secrets Ordinance and proposed section 2A of SO; to review the need for the regulations and rules to provide for the admissibility of evidence as reflected in new section 8D(6) of SO</td>
<td>Admin to consider the need to include BL87 in the provisions requiring enforcement to be consistent with Chapter III of BL in the proposed section 18A of CO, proposed section 1A of the Official Secrets Ordinance and proposed section 2A of SO; to review the need for the regulations and rules to provide for the admissibility of evidence as reflected in new section 8D(6) of SO</td>
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<td>011843 - 012807</td>
<td>Hon CHAN Kam-lam Admin</td>
<td><strong>Purpose of the proposed CSAs to section 2(1)(c) of CO; effect of the proposed CSAs to section 9A of CO and section 8E and 8F of SO</strong></td>
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<td>012808 - 014610</td>
<td>Hon LAU Kong-wah LA Chairman Admin</td>
<td><strong>Whether the proposed new rule making powers under new sections 8E and 8F of SO were appropriate; why a time limit of three years was proposed in new section 9C(3) of CO; whether a person could be caught by new section 9C of CO, if the seditious publication concerned was published many years ago; to consider improving the drafting of new sections 9A(1) and 9C(1) of CO in relation to the terms &quot;任何人&quot;, &quot;他人&quot;, &quot;另一人&quot; and &quot;某人&quot;</strong></td>
<td><strong>Admin to consider improving the drafting of new sections 9A(1) and 9C(1) of CO in relation to the terms &quot;任何人&quot;, &quot;他人&quot;, &quot;另一人&quot; and &quot;某人&quot;</strong></td>
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<td>014611 - 015909</td>
<td>Hon Miriam LAU Admin Chairman</td>
<td><strong>Drafting of new section 2(1)(c) of CO in relation to the term &quot;藉著&quot;; drafting of new sections 9A(1) and 9C(1) of CO in relation to the terms &quot;任何人&quot;, &quot;他人&quot;, &quot;另一人&quot; and &quot;某人&quot;; time limit for prosecution in new section 9C(3) of CO</strong></td>
<td><strong>Admin to review the drafting of new section 2(1)(c) of CO in relation to the term &quot;藉著&quot;; to consider improving the drafting of new sections 9A(1) and 9C(1) of CO in relation to the terms &quot;任何人&quot;, &quot;他人&quot;, &quot;另一人&quot; and &quot;某人&quot;; to consider revising the time limit for prosecution in new section 9C(3) of CO to a period between six months and 3 years</strong></td>
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<td>015910 - 020214</td>
<td>Hon HUI Cheung-ching Admin Chairman</td>
<td>Whether &quot;reasonably believes&quot; in new section 18B of CO should be amended to &quot;reasonably suspects&quot;</td>
<td>Admin to consider the need to amend &quot;reasonably believes&quot; in new section 18B of CO to &quot;reasonably suspects&quot;</td>
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<td>021620 - 022733</td>
<td>Hon LEUNG Fu-wah Admin LA</td>
<td>Legal effect of the term &quot;intentionally&quot; in new section 9A(1) of CO</td>
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<td>022734 - 024149</td>
<td>Hon Albert HO Admin Chairman</td>
<td>Whether provisions in the Bill as amended by the CSAs were consistent with the Johannesburg Principles; why rules made under new section 8F of SO would be subject to regulations made under new section 8E of SO; whether there should be special procedures for appeals against proscription</td>
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<td>024150 - 025321</td>
<td>Hon Cyd HO Admin</td>
<td>Whether Secretary for Security (S for S) should be empowered to make regulations under new section 8E of SO; whether the time limit in new section 9C(3) of CO should be reduced to six months and whether the time limit should also be applicable to new section 9A of CO; whether a person would be caught by new section 9C of CO for handling a seditious publication, if a publication was determined seditious by the court many years after it was published</td>
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<td>025322 - 030453</td>
<td>Hon LEE Cheuk-yan Admin Hon Audrey EU</td>
<td>Whether the CSAs were adequate; whether an appeal mechanism similar to that under the United Nations (Anti-Terrorism Measures) Ordinance should be adopted for the appeals mechanism proposed in the Bill</td>
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<td>030454 - 032101</td>
<td>Hon CHEUNG Man-kwong Chairman Admin</td>
<td>Weaknesses of the proposed proscription and appeal mechanism; whether there was a need for new section 8A(2)(c) of SO; whether S for S should be empowered to make regulations under new section 8E of SO; verbatim record on the Administration's responses to questions raised by Mr CHEUNG Man-kwong at the meeting on 31 May 2003 on the drawbacks of the proposed proscription of local organizations</td>
<td>Clerk to prepare the verbatim record</td>
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<td>032102 - 032941</td>
<td>Hon Emily LAU Chairman Admin</td>
<td>Whether the Bills Committee should hold meetings to receive the views of the public on the CSAs proposed by the Administration; whether there was a need for the investigation power in new section 18B of CO; whether the enactment of new section 8A(2)(c) of SO would lead to the introduction of Mainland laws or national security concepts into Hong Kong; power to make regulations and rules for appeals under new sections 8E and 8F of SO</td>
<td>LA to advise generally on the power to make regulations and rules for appeals under new sections 8E and 8F of SO</td>
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<td>032942 - 033607</td>
<td>Hon NG Leung-sing Admin</td>
<td>Burden of proof under new section 8D of SO</td>
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| 033608 - 033904 | Hon Ambrose LAU Chairman Admin | Whether the Chief Executive in Council, instead of S for S, should be empowered to make regulations under new section 8E of SO; whether the element of "another person is likely to be induced" in new section 9A(1) of CO was found in existing laws on incitement
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<tr>
<td>033905 - 034116</td>
<td>Admin Chairman</td>
<td>Timing for completion of scrutiny of the Bill; resumption of Second Reading debate on the Bill</td>
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<td>034117 - 035501</td>
<td>Hon TAM Yiu-chung Hon Albert HO Hon LEE Cheuk-yen Hon YEUNG Yiu-chung Hon LEUNG Fu-wah Hon Cyd HO Hon Emily LAU Hong Audrey EU Chairman</td>
<td>Whether the Bills Committee should hold meetings to receive the views of the public on the CSAs proposed by the Administration; voting on whether the Bills Committee should hold meetings to receive the views of the public on the proposed CSAs</td>
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<td>035502 - 035632</td>
<td>Hon Cyd HO Hon Audrey EU Chairman</td>
<td>Whether individuals and organizations who had expressed views on the Bill to the Bills Committee should be invited to give written views on the CSAs proposed by the Administration</td>
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<td>035633 - 040530</td>
<td>Chairman Hon Audrey EU Hon Albert HO Hon LEE Cheuk-yen Hon CHAN Kam-lam Admin</td>
<td>Way forward in studying the Bill, provision of the Administration's responses to outstanding issues raised by members; whether additional meetings should be held on 14 and 21 June 2003 to discuss the Bill with the Administration</td>
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Council Business Division 2
Legislative Council Secretariat
4 July 2003