

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 Tuesday, 10 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 Martin LEE Chu-ming, SC, JP
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-ye, 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
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
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 Andrew CHENG Kar-foo
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon Henry WU King-cheong, BBS, JP
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

Member attending : Dr Hon YEUNG Sum

Members absent : Hon Andrew WONG Wang-fat, JP
Hon LAU Chin-shek, JP
Dr Hon LO Wing-lok
Hon WONG Sing-chi

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. At the beginning of the meeting, Mr Martin LEE proposed to move a motion urging the Administration to defer the resumption of Second Reading debate on the Bill, and requested that the proposed motion be dealt with immediately. The Chairman suggested that the motion be dealt with under agenda item II "Any other business". As there were divided views among members, a vote was taken on Mr LEE's request. 14 members voted in favour of the request, while 15 members voted against.

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

- (a) to provide members with relevant provisions in existing legislation relating to winding-up;
 - (b) in relation to provisions on the winding up of a proscribed local organization, to consider the need to provide for settlement of outstanding salary and other payments liable to be made under the Employment Ordinance after an organization had been proscribed; and
 - (c) to provide information on precedents where the Administration made rules to provide for court procedure.
4. Secretary for Security said that regulations made under new section 8E of the Societies Ordinance would be subject to the approval of the Legislative Council.
5. The Bills Committee requested the Legal Adviser to highlight relevant extracts of the case of *A, X and others v Secretary of State for the Home Department*.

II. Any other business

6. Mr Martin LEE moved the following motion -

"就本草案而言，政府曾承諾會給予市民充足的諮詢時間，及給予草案委員會充足的審議時間，但基於草案的嚴重性、複雜性及爭議性，以及在此期間發生「沙士」疫症，令公眾未能詳細了解草案的內容，而本草案審議委員會亦未有足夠時間進行公眾諮詢，及未有充足時間完成詳盡和仔細的審議工作，委員會要求政府取消於7月9日恢復二讀辯論的決定，押後提出恢復二讀辯論的日期，以讓公眾有充足機會進行討論，及讓委員會有充足時間進行審議工作。"

7. The Bills Committee debated and voted on the motion moved by Mr Martin LEE. Mr Martin LEE requested that the names of members who voted be recorded.

8. The following 15 members voted in favour of the motion -

Ms Cyd HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Miss Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Mr SIN Chun-kai, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Dr LAW Chi-kwong, Mr MAK Kwok-fung and Ms Audrey EU.

9. The following 24 members voted against the motion -

Dr David CHU, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-

keung, Mr Bernard CHAN, Mr CHAN Kam-lam, Dr Philip WONG, Mr WONG Yung-kan, Mr TSANG Yok-sing, Mr Howard YOUNG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Henry WU, Mr LEUNG Fu-wah and Mr MA Fung-kwok.

10. The Chairman concluded that the motion was not carried.

11. The Chairman suggested that the Bills Committee would commence clause-by-clause examination of the Bill at the next meeting on 14 June 2003 at 9:00 am. As there were divided views among members, a vote was taken on the suggestion. 24 members voted in favour of the suggestion, while 12 members voted against.

12. Members noted a letter dated 10 June 2003 from Civil Human Rights Front strongly requesting the Bills Committee to hold meetings to receive the views of the public on the Committee Stage amendments (CSAs) proposed by the Administration. The Chairman said that the Bills Committee had voted against that suggestion at the meeting on 3 June 2003. The Bills Committee had also agreed at the same meeting 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.

13. Mr James TO suggested that the decision at the meeting on 3 June 2003 that additional meetings would not be held to receive the views of the public on the CSAs proposed by the Administration be rescinded. As there were divided views among members, a vote was taken on Mr TO's suggestion. 12 members voted in favour of the suggestion, while 19 members voted against.

14. Mr Martin LEE suggested that the meetings originally scheduled to be held on Saturday, 14 June 2003 at 9:00 am and 2:00 pm be rescheduled to Sunday, 15 June 2003 at 9:00 am and 2:00 pm to avoid clashing with a seminar to be held on 14 June 2003 on the enactment of legislation to implement Article 23 of the Basic Law. As there were divided views among members, a vote was taken on the suggestion. 11 members voted in favour of the suggestion, while 18 members voted against.

15. The meeting ended at 7:10 pm.

**Proceedings of the meeting of the Bills Committee on
National Security (Legislative Provisions) Bill
on Tuesday, 10 June 2003 at 2:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000302	Chairman	Opening remarks and papers issued	
000303-000806	Hon Martin LEE Chairman Admin	Whether there was an urgency for resumption of Second Reading debate on the Bill at the Council meeting on 9 July 2003	
000807-000909	Hon Martin LEE	Proposing to move a motion urging the Administration to defer the resumption of Second Reading debate on the Bill	
000910-003158	Chairman Hon Martin LEE LA Hon Margaret NG Hon LAU Kong-wah Hon CHEUNG Man-kwong Hon Jasper TSANG Hon Albert HO Hon Emily LAU Hon Cyd HO Hon LEUNG Fu-wah Hon Audrey EU Hon TAM Yiu-chung Hon Mrs Selina CHOW	Whether the motion proposed by Hon Martin LEE should be dealt with immediately or under "Any other business"; voting on whether the motion proposed by Hon Martin LEE should be dealt with immediately	
003159-003321	Hon Audrey EU Chairman	Discussion of papers provided by the Administration	
003322-004821	Hon Albert HO Admin Chairman	Effect of dissolution of a proscribed organization on an appeal lodged by the organization	
004822-010514	Hon Emily LAU Admin	Procedures for appeals against proscription before regulations were enacted under the	

Time marker	Speaker	Subject(s)	Action Required
		proposed new section 8E of the Societies Ordinance (SO); issues raised in the submission from Legal Aid Services Council (Submission No. 165)	
010515-011237	Hon Audrey EU Admin Chairman	Remit of Legal Aid Services Council; implications of the introduction of a public interest defence on litigation cost; matters following proscription of a statutory body, a partnership or an association	
011238-012109	Hon LEE Cheuk-yan Admin	Remit of Legal Aid Services Council; whether the provision of legal advice or legal aid to a proscribed organization would be caught by the proposed new section 8C(1)(e) of SO	
012110-012614	Hon Martin LEE Admin Chairman	Criteria for the selection of a legal practitioner referred to in new section 8E(4)(a) and (b) of SO; whether there would be any security check in the selection of such a legal practitioner; whether regulations made under new section 8E of SO would be subject to the approval of the Legislative Council	
012615-013734	Hon Margaret NG Admin Chairman	Whether the regulations to be made under the proposed new section 8E of SO should be drafted before the Bill was enacted; remit of the legal Aid Services Council; comparison of the Committee Stage amendments (CSAs) relating to matters following proscription of an organization and existing legislation relating to winding-up	Admin to provide members with relevant provisions in existing legislation relating to winding-up
013735-015821	Hon James TO Admin LA Chairman	Whether the proposed special procedures for appeals were in contravention of Article 14 of the International Covenant on Civil and Political Rights; whether there would be special procedures for appeals against proscription before regulations were made under the proposed new section 8E of SO; relevant extracts of the case of <i>A, X and others v Secretary of State for the Home Department</i>	LA to highlight relevant extracts of the case of <i>A, X and others v Secretary of State for the Home Department</i>

Time marker	Speaker	Subject(s)	Action Required
015822-021426	Chairman Hon Albert HO Hon James TO Hon CHEUNG Man-kwong Hon LEE Cheuk-yan Hon Emily LAU Hon Howard YOUNG Hon Cyd HO Hon LEUNG Fu-wah	Whether the Bills Committee should commence clause-by-clause examination of the Bill after the break	
[Break]			
022856-023914	Hon Albert HO Admin	Use of funds of a proscribed organization for settlement of legal expenses and outstanding salary payment	
023915-024823	Hon CHEUNG Man-kwong Admin Chairman	Whether there should be reference to the basic system of the People's Republic of China in the proposed new section 2A(1)(a) of the Crimes Ordinance	
024824-025047	Hon LEE Cheuk-yan Admin	Whether there was a need to provide for settlement of outstanding salary and other payments liable to be made under the Employment Ordinance after an organization had been proscribed	Admin to consider the need to provide for settlement of outstanding salary and other payments liable to be made under the Employment Ordinance after an organization had been proscribed
025048-030319	Hon Emily LAU Chairman Admin	Whether the existing time limit for prosecution against treason and sedition should be maintained; whether the offence in the proposed new section 16A and the proposed section 18 of the Official Secrets Ordinance should be confined to Hong Kong permanent residents who were Chinese nationals; whether a local organization should be proscribed by the Court of First Instance	

Time marker	Speaker	Subject(s)	Action Required
030320-032316	Hon James TO Admin Chairman	Whether a local organization should be proscribed by the Court of First Instance; whether persons convicted of treason, subversion secession or sedition by inciting the commission of treason, subversion or secession should be disqualified for life from being a member of the Legislative Council, a District Council and the Hong Kong Arts Development Council	
032317-033601	Hon Margaret NG Admin Chairman	Whether the avenue of judicial review would still be available after the proposed special procedures for appeals against proscription were in place; information on precedents where the Administration made rules to provide for court procedure	Admin to provide information on precedents where the Administration made rules to provide for court procedure
033602-041609	Chairman Hon Martin LEE Hon Albert HO Hon James TO Hon CHAN Kam-lam Hon Margaret NG Hon Emily LAU Hon Audrey EU Hon CHEUNG Man-kwong Hon Cyd HO Hon Miriam LAU Admin	Debate on the motion moved by Hon Martin LEE	
041610-041907	Chairman	Voting on the motion moved by Hon Martin LEE	
041908-042007	Chairman	Debate and voting on whether the Bills Committee should commence clause-by-clause examination of the Bill at the next meeting on 14 June 2003 at 9:00 am	
042008-042239	Chairman Hon James TO Hon CHAN Kam-lam	Letter dated 10 June 2003 from Civil Human Rights Front; debate and voting on whether the decision at the meeting on 3 June 2003 that additional meetings would not be held to receive the views of the public on the CSAs proposed by the Administration be rescinded	

Time marker	Speaker	Subject(s)	Action Required
042240-043955	Chairman Hon Miriam LAU Hon CHAN Kam-lam Hon James TO Hon LEUNG Yiu-chung Hon LAU Kong-wah Hon Margaret NG Hon Jasper TSANG Hon LEUNG Fu-wah Hon LEE Cheuk-yan Hon Mrs Selina CHOW	Whether the meetings scheduled to be held on 14 June 2003 at 9:00 am and 2:00 pm should be rescheduled	
043956-044117	Hon Martin LEE Hon LAU Kong-wah Chairman	Debate and voting on whether the meetings originally scheduled to be held on Saturday, 14 June 2003 at 9:00 am and 2:00 pm should be rescheduled to Sunday, 15 June 2003 at 9:00 am and 2:00 pm	

Council Business Division 2
Legislative Council Secretariat
15 July 2003