

NATIONAL SECURITY (LEGISLATIVE PROVISIONS) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
4	In the proposed section 2(1)(c), by deleting “ , 藉着作出任何作為而 ” and substituting “ 而作出任何作 為 , 藉此 ” .
5	By adding “ 的 ” after “ 安全 ” .
6	(a) In the proposed section 9A(1)(a), by adding “intentionally” before “incites” . (b) In the proposed section 9A(1)(b), by adding “intentionally” before “incites” . (c) In the proposed section 9A, by adding - “(1A) An incitement shall not constitute an offence under subsection (1) unless the nature of the incitement and the circumstances in which the incitement is made are such that - (a) one or more persons incited are likely to be induced; or

(b) an ordinary person
would, if subjected to
the incitement, likely
be induced,

to (where subsection (1)(a) applies)
commit the offence or to (where
subsection (1)(b) applies) engage in
violent public disorder.".

(d) In the proposed section 9C(1), by deleting
"cause the commission of" and substituting
"induce a person to commit".

(e) In the proposed section 9C, by adding -
"(3) No prosecution for an
offence under subsection (2) shall be
commenced after 2 years from the date
of commission of the offence.".

(f) In the proposed section 9D(3)(d), by
deleting "組別" and substituting "階層".

7 (a) In the proposed section 18A, by deleting
"Article 39" and substituting "Chapter
III".

(b) By deleting the proposed section 18B.

New By adding immediately before clause 8 -

"7A. Section added

The Official Secrets Ordinance (Cap. 521) is amended by adding in Part I -

**"1A. Enforcement, etc.
of this Ordinance
to be consistent
with Basic Law**

The provisions of this Ordinance are to be interpreted, applied and enforced in a manner that is consistent with Chapter III of the Basic Law."."

8(1) By deleting "of the Official Secrets Ordinance (Cap. 521)".

9 By deleting the clause.

New By adding -

**"11AB. Information resulting from
unauthorized disclosures
or illegal access or
information entrusted
in confidence**

Section 18 is amended by adding -

"(5B) A person does not commit an offence under this section if -

(a) he makes a disclosure that reveals -

(i) any unlawful activity, abuse

of power,
serious neglect
of duty or other
serious
misconduct by
any public
official; or

(ii) a serious threat
to -

(A) public
order;

(B) public
security;
or

(C) the health
or safety
of the
public;

(b) the disclosure does
not exceed the extent
that is necessary for
revealing that
matter; and

(c) having regard to all
the circumstances of
the case, the public
interest served by

the disclosure
outweighs the public
interest served by
not making that
disclosure."."

14 In the proposed section 2A, by deleting "Article
39" and substituting "Chapter III".

New By adding -

**"14A. Prohibition of
operation of
societies**

Section 8(1)(a) is amended by
repealing "national security or"."

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- (a) In the proposed section 8A(1), by deleting
"國家安全利益" and substituting "維護國家安全".
 - (b) In the proposed section 8A(2)(a), by adding
"or" at the end.
 - (c) In the proposed section 8A(2)(b), by
deleting "; or" and substituting a full
stop.
 - (d) By deleting the proposed section 8A(2)(c).
 - (e) By deleting the proposed section 8A(3) and
(4).

- (f) In the proposed section 8A(5)(f)(ii), by deleting "the Schedule;" and substituting "Schedule 1."
- (g) By deleting the proposed section 8A(5)(g) and (h).
- (h) In the proposed section 8C(1)(e), by adding "without the prior written approval of the Secretary for Security," before "pays".
- (i) In the proposed section 8C(1), by deleting "a proscribed organization" and substituting "a local organization after it has been proscribed under section 8A".
- (j) In the proposed section 8C, by adding -
 - "(1A) The following acts shall not constitute an offence under subsection (1) -
 - (a) participating in any legal proceedings (whether in one's own right or as the representative of an organization which is a party to such proceedings);
 - (b) seeking, providing or receiving any legal services or making or

receiving any payment
in respect of such
services;

(c) with the prior written
approval of the
Secretary for
Security, making
payment to discharge
any liability; or

(d) doing any act which is
incidental to an act
referred to in
paragraph (a), (b) or
(c).".

(k) By deleting the proposed section 8D(2).

(l) In the proposed section 8D(3)(a), by adding
"not" before "satisfied".

(m) In the proposed section 8D(3)(a)(i), by
deleting "not".

(n) In the proposed section 8D(3)(a)(ii) -

(i) by deleting "insufficient" and
substituting "sufficient";

(ii) by deleting ", (b) or (c); or"
and substituting "or (b); and".

(o) In the proposed section 8D(3)(a)(iii), by
deleting "insufficient" and substituting
"sufficient".

- (p) In the proposed section 8D(3)(a)(iii)(A),
by deleting “國家安全利益” and substituting
“維護國家安全”.
- (q) In the proposed section 8D(3)(b), by
deleting “not”.
- (r) In the proposed section 8D(4), by deleting
“under subsection (3)” and substituting “on
an appeal under this section”.
- (s) In the proposed section 8D(6), by deleting
everything after “admit” and substituting
“any evidence that would, but for this
subsection, not be admissible in a court of
law.”.
- (t) In the proposed section 8D, by adding -
 - “(7) A party to an appeal
referred to in subsection (1) may
appeal to the Court of Appeal against
the decision of the Court of First
Instance on any ground involving a
question of law.
 - (8) An appeal may only be
lodged under subsection (7) with
leave to appeal granted by the Court
of First Instance or, where the Court
of First Instance refuses to grant
such leave, by the Court of Appeal.”.

(u) In the proposed section 8E, in the heading, by deleting "**Chief Justice may make rules**" and substituting "**Secretary for Security may make regulations**".

(v) By deleting the proposed section 8E(1) and substituting -

"(1) The Secretary for Security may, subject to the approval of the Legislative Council, make regulations to provide for the handling of appeals lodged under section 8D including matters which are incidental to or arise out of the hearing of such appeals."

(w) In the proposed section 8E(2), by deleting "rules under this section, the Chief Justice" and substituting "regulations under this section, the Secretary for Security".

(x) In the proposed section 8E(3), by deleting "Rules" and substituting "Regulations".

(y) In the proposed section 8E(4), by deleting "rules" where it twice appears and substituting "regulations".

(z) By adding -

**"8F. Rules Committee
may make rules
for appeals**

The Rules Committee constituted under section 55 of the High Court Ordinance (Cap. 4) may, subject to the regulations made under section 8E, make rules of court to provide for -

- (a) the lodgement, hearing and withdrawal of appeals under section 8D;
- (b) costs in respect of such appeals;
- (c) the practice and procedure concerning the hearing of such appeals; and
- (d) such other procedural matters which are incidental to or arise out of the hearing of such appeals.

8G. Matters following proscription

Schedule 2 has effect in relation to the proscription of an organization under section 8A."

Schedule By deleting the subheading immediately before
section 2.

Schedule By deleting section 2.

Schedule,
section 8 In the proposed section 14A(4), by deleting
"under section 8D(3)" and substituting "on an
appeal under section 8D".

Schedule By adding -

 **"11A. "Schedule 1" substituted for
 "the Schedule"**

 Sections 2(2), (2B) and (3), 9(1)(c)
 and 14A(2) are amended by repealing "the
 Schedule" and substituting "Schedule 1".

Schedule,
section 12 By deleting paragraph (a) and substituting -

 "(a) by repealing -

 "SCHEDULE [s. 2]"

 and substituting -

 "SCHEDULE 1 [ss. 2, 8A,
 9 & 14A]"

Schedule By adding immediately after section 12 -

 "12A. Schedule 2 added

 The following is added -

 "SCHEDULE 2 [s. 8G]

MATTERS FOLLOWING PROSCRIPTION
OF AN ORGANIZATION UNDER

SECTION 8A OF THIS
ORDINANCE

1. **Companies registered
under Companies
Ordinance**

(1) If a company registered under the Companies Ordinance (Cap. 32) is proscribed under section 8A of this Ordinance, the Registrar of Companies shall -

(a) strike the name of such company off the register of companies kept by the Registrar; and

(b) publish a notice of the striking off in the Gazette,

and upon the publication of the notice such company shall be dissolved.

(2) On an application of the Registrar of Companies to the Court of First Instance, a company struck off the register under subsection (1) shall be wound up and sections 360D, 360E, 360F, 360G, 360H, 360I, 360J, 360K, 360L and 360M of the Companies

Ordinance (Cap. 32) shall apply to such company as if such company were a company struck off the register and dissolved under section 360C of that Ordinance.

**2. Unregistered companies
under Companies
Ordinance**

(1) An unregistered company within the meaning of section 326 of the Companies Ordinance (Cap. 32) which is proscribed under section 8A of this Ordinance shall for the purpose of section 327(3) of the Companies Ordinance (Cap. 32) be regarded as having been dissolved.

(2) On an application of the Registrar of Companies to the Court of First Instance, the company referred to in subsection (1) shall be wound up and Part X of the Companies Ordinance (Cap. 32) shall apply to such company.

**3. Other types of
organizations**

(1) If an organization that is proscribed under section 8A of this

Ordinance is not registered under the Companies Ordinance (Cap. 32) but is registered under any other Ordinance, the appropriate authority shall -

- (a) cancel the registration of that organization and (if applicable under that other Ordinance) remove or strike its name off the relevant register or any other similar record; and
- (b) publish a notice of the cancellation in the Gazette,

and upon the publication of the notice -

- (c) that organization shall be dissolved for the purposes of that other Ordinance and all other purposes; and
- (d) the provisions (if any) of that other

Ordinance applicable
to -

- (i) the
dissolution
of that
organization
shall apply
as if it
were
dissolved
under that
other
Ordinance;
- (ii) the winding
up of
organizations
shall apply
to that
organization.

(2) Subject to subsection
(1)(d), an organization referred to
in subsection (1) shall, on an
application of the appropriate
authority to the Court of First
Instance, be wound up and Part X of
the Companies Ordinance (Cap. 32)
shall apply as if such organization

were an unregistered company within the meaning of section 326 of that Ordinance.

(3) In this section,
"appropriate authority" means -

- (a) where a person has authority under the relevant Ordinance to cancel the registration of the relevant organization under that Ordinance, that person; or
- (b) in any other case, the Registrar of Companies.

4. Dissolution or winding up not to take place before legal remedies are exhausted

If an organization has been proscribed under this Ordinance -

- (a) where section 1(1) or 3(1) applies, no action shall be taken under that section in relation to that organization; or

- (b) where section 2(1) applies, that organization shall not be regarded under that section as having been dissolved,

unless -

- (c) the time limit for taking legal proceedings against the proscription has expired and no such proceedings have been taken; or
- (d) such proceedings (if any) have been concluded.

5. Liabilities of members, etc. shall continue notwithstanding dissolution

If an organization -

- (a) is dissolved pursuant to section 1(1) or 3(1); or
- (b) is regarded under section 2(1) as having been dissolved,

the liability, if any, of every director, officer and member of that organization shall continue and may be enforced as if that organization had not been dissolved."."

Schedule,
section 13

By adding "7(6)," after "5,".

Schedule

By adding immediately before section 29 -

"28A. Interpretation

Section 2(1) of the Organized and Serious Crimes Ordinance (Cap. 455) is amended -

(a) in the definition of "Schedule 1 offence", by repealing "of any of those offences;" and substituting -

"of any of those offences,

but an act that is not itself an offence shall not be a Schedule 1 offence by virtue of paragraph

(b), (c), (d) or
(e);";

(b) in the definition of
"specified offence", by
repealing "of any of those
offences;" and
substituting -

"of any of
those
offences,
but an act that is not
itself an offence
shall not be a
specified offence by
virtue of paragraph
(b), (c), (d) or
(e);".".

Schedule,
section 29

- (a) By deleting "of the Organized and Serious Crimes Ordinance (Cap. 455)".
- (b) In the proposed section 5(9)(a), by adding "or" at the end.
- (c) In the proposed section 5(9)(b), by deleting "; or" at the end and substituting a comma.
- (d) By deleting the proposed section 5(9)(c).

Schedule

By adding immediately after section 34 -

**"Crimes (Amendment)(No. 2)
Ordinance 1997**

34A. Repeal

The Crimes (Amendment)(No. 2)
Ordinance 1997 (89 of 1997) is repealed."