

**National Security (Legislative Provisions) Bill :
“Central Authorities”**

Introduction

This paper sets out the Administration's response on questions regarding the term “Central Authorities”, pursuant to questions raised at the meetings of the Bills Committee on 24 and 27 May 2003.

Meaning of the Reference to “Central Authorities”

2. The reference to “Central Authorities” in Bill is intended to bear the same meaning as in the Basic Law. Within the Basic Law, the term appears in a number of places, including the title of Chapter II and Articles 13, 14 and 17. We note that the Central People's Government and the National People's Congress are referred to in Chapter II of the Basic Law as parties which bear responsibilities on the affairs of the HKSAR.

References to “Central Authorities” in the Laws of Hong Kong

3. There are a number of references to the expression “Central Authorities” in the existing legislation of Hong Kong.

4. In section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), the term “State” is defined to include, *inter alia*, the Central People's Government (“CPG”) and the Central Authorities of the PRC. Paragraph 1 of Schedule 8 to Cap. 1 also provides that where the content of the provision involves the relationship between the Central Authorities and the HKSAR, any reference to Her Majesty, the Crown, the British Government or the Secretary of State shall be construed as a reference to the CPG or other competent authorities of the PRC. It is clear from these provisions that the expression “Central Authorities” includes but is not limited to the CPG.

5. Most of the references to the Central Authorities are found in private ordinances, which, according to rule 50 of the Rules of Procedure of the Legislative Council, must include a saving provision as follows.

“Nothing in this Ordinance shall affect or be deemed to affect the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other

laws, or the rights of any body politic or corporate or of any other person except such as are mentioned in this Ordinance and those claiming by, from or under them.”

Reference to “Central Authorities” in the Bill

6. References to “Central Authorities” are made in the proposed section 16A of the Official Secrets Ordinance and in the proposed section 8A(2)(c) of the Societies Ordinance.

7. The reference in the Official Secrets Ordinance aims to narrow down the category of information on the “relations between the Central Authorities and the HKSAR”, which was proposed in the Consultation Document in order to cover an existing area now protected under “international relations.” The proposal was put forward as it is now not appropriate to describe relations between the Mainland and the HKSAR as “international.”

8. The reference to “Central Authorities” in the proposed section 8A(2)(c) of the Societies Ordinance qualifies one of the three pre-conditions where the proscription mechanism would be applicable to an organization. Prohibition of a Mainland organization under the law of the People’s Republic of China is a matter within the jurisdiction of the Mainland authorities. It is neither appropriate nor necessary for us to specify the Mainland institutions which may be empowered to prohibit a Mainland organization on grounds of protecting the security of the PRC. The reference to “Central Authorities” would exclude other institutions at or below the provincial level.

9. We consider the references to “Central Authorities” in the Bill are sufficiently clear and precise.

Security Bureau
June 2003