

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2429/03-04  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/8/03

**Bills Committee on  
Professional Accountants (Amendment) Bill 2004**

**Minutes of the fourth meeting held on  
Monday, 14 June 2004, at 8:30 am  
in Conference Room B of the Legislative Council Building**

**Members present** : Hon SIN Chung-kai (Chairman)  
Hon Kenneth TING Woo-shou, JP  
Dr Hon Eric LI Ka-cheung, GBS, JP  
Hon Audrey EU Yuet-mee, SC, JP

**Members absent** : Hon Albert HO Chun-yan  
Dr Hon David LI Kwok-po, GBS, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Emily LAU, JP  
Hon Henry WU King-cheong, BBS, JP

**Public officers  
attending** : Mrs Clarie LO  
Deputy Secretary for Financial Services and the Treasury  
(Financial Services)  
  
Miss Annie KONG  
Assistant Secretary for Financial Services and the Treasury  
(Financial Services) (4) 2

**Attendance by invitation** : Hong Kong Society of Accountants

Mr Roger Best  
President

Mr F K AU  
Legal Representative

**Clerk in attendance** : Ms Anita SIT  
Chief Council Secretary (1)6

**Staff in attendance** : Mr KAU Kin-wah  
Assistant Legal Adviser 6

Ms Rosalind MA  
Senior Council Secretary (1)8

Miss Edith CHAN  
Council Secretary (1)1

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Action

**I. Meeting with the Hong Kong Society of Accountants and the Administration**

(LC Paper No. CB(1)2115/03-04 (01) — Supplementary information provided by the Hong Kong Society of Accountants in response to issues raised at the meeting on 7 June 2004

LC Paper No. CB(1)2115/03-04 (02) — A summary of the draft Committee Stage amendments after the gazettal of the Bill on 19 March 2004 up to 11 June 2004 with details)

1. The Bills Committee discussed matters arising from the last meeting and considered the proposed Committee Stage amendments (CSAs) provided by the Hong Kong Society of Accountants (HKSA).

2. The Bills Committee noted the revised version of the paper on “A summary of the draft Committee Stage amendments after the gazettal of the Bill on 19 March 2004 up to 11 June 2004 with details” provided by HKSA and tabled at the meeting.

(*Post-meeting note:* The paper was circulated to members vide LC Paper No. CB(1)2149/03-04 on 14 June 2004.)

### Matters arising from previous meetings

#### *Appointment of lay members by the Chief Executive*

3. In response to members' concern about the appointment of lay members raised at the Bills Committee meeting held on 4 June 2004, the Deputy Secretary for Financial Services and the Treasury (Financial Services) (DSFS) said that the Administration would follow the general government policy of selecting the most suitable candidates having regard to their experience and background. She advised that as there were already some lay members in the existing Disciplinary Panel, the Administration would discuss with HKSA on the suitability of their continued appointment in the Disciplinary Panel A. The Chief Executive would appoint other lay members from the academia, the business sector, the relevant regulatory bodies and professionals of relevant sectors having regard to the respective functions of the Council and the Panels. Responding to Ms Audrey EU's enquiry, DSFS said that apart from consulting HKSA on the suitability of continued appointment of existing lay members, the Chief Executive would also take into consideration other recommendations from relevant parties.

#### *Hearings of the Disciplinary Committee to be held in public as a norm*

4. At the invitation of the Chairman, Mr Roger BEST of HKSA briefed members on the consultation that had been conducted with HKSA members on the proposal of the Disciplinary Committee holding public hearings as a norm (LC Paper No. CB(1)2115/03-04(01)). He advised that HKSA members were consulted on the proposal through a White Paper issued in September 2000. Among the eight submissions received on the proposal, two expressed agreement and six expressed disagreement. A Response Paper was issued to all members in June 2001 summarizing the issues raised in the submissions, setting out the decision and the relevant considerations of the HKSA Council in adopting the proposal of the Disciplinary Committee holding public hearings as a norm. He advised that the proposal was supported by the majority of HKSA members at the extraordinary general meeting held on 7 July 2003, at which a resolution on the legislative proposals under the Bill, including the conduct of disciplinary hearings in public, was passed with 515 votes in favour among the total of 568 votes cast.

5. While not objecting to HKSA's proposal for enhancing the transparency of its disciplinary proceedings, Ms Audrey EU requested to put on record that the proposal should not be taken as setting an example for other professions, as whether to hold disciplinary hearings in public or camera, the other professions might have certain considerations that were not relevant to the accountancy profession. Hence, holding disciplinary hearings in public might not be appropriate for some other professions.

Dr Eric LI appreciated Ms EU's concern and undertook to make clear in his speech at the resumption of the Second Reading debate on the Bill that the proposal for holding disciplinary hearings in public for the accountancy profession in Hong Kong was not intended to set an example for other professions.

*Immunity for the members of the Council*

6. Referring to the proposed new section 53 (Immunity for the members of the Council, etc.) (Clause 53), the Assistant Legal Adviser 6 (ALA6) said that as directed by the Chairman at the last meeting, he had examined whether there were comparable provisions in other ordinances to the "immunity" provisions in the Bill. ALA6 advised that while there were similar provisions for statutory bodies exercising regulatory functions, e.g. the Securities and Futures Commission, there was no express immunity provision for members of the Medical Council of Hong Kong. For some other non-statutory professional bodies, such as the Law Society of Hong Kong and the Hong Kong Bar Association, their council members were not provided with the immunity.

7. Ms Audrey EU was concerned whether council members of statutory professional bodies in overseas jurisdiction were provided with immunity similar to the proposed section 53. Dr Eric LI explained that unlike some of its counterparts in overseas jurisdictions which were not established by legislation, HKSA performed statutory regulatory functions and the decisions of the HKSA Council might be subject to legal challenge of any aggrieved members. There was a need to expand the immunity provision to the effect that no liability should be incurred by any person in respect of any acts done or any omission made by him in good faith in the performance of any functions under the Ordinance. DSFS advised that there were similar provisions in New Zealand and Singapore affording immunity to persons performing disciplinary functions for the accountancy profession.

8. Noting that the proposed immunity provision only provided immunity in respect of personal liability (i.e. the Hong Kong Institute of Certified Public Accountants itself would not be immune from suit for any misfeasance) and the immunity was subject to the "good faith" test, the Bills Committee accepted the proposed immunity provision.

*Public consultation*

9. The Bills Committee noted that no submission had been received by the end of the public consultation period on 12 June 2004.

Way forward

10. The Bills Committee examined the proposed CSAs provided by HKSA. The Chairman concluded that the Bills Committee supported the Bill as amended by the proposed CSAs. The Bills Committee would report to the House Committee on

18 June 2004 recommending the resumption of the Second Reading debate on the Bill on 7 July 2004.

**II. Any other business**

11. There being no other business, the meeting ended at 9:00 am.
12. The index of proceedings of the meeting is at **Appendix**.

Council Business Division 1  
Legislative Council Secretariat  
21 July 2004

## Appendix

**Proceedings of the third meeting of the  
Bills Committee on Professional Accountants (Amendment) Bill 2004  
on Monday, 14 June 2004, at 8:30 am  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000111	Chairman	Welcoming and introductory remarks	
000112 - 000633	Chairman Administration Ms Audrey EU Mr Kenneth TING	The Administration's response to members' concern about the appointment of lay members by the Chief Executive	
000634 - 001230	Chairman Hong Kong Society of Accountants (HKSA) Ms Audrey EU Dr Eric LI	(a) Briefing by HKSA on "Supplementary information provided by HKSA in response to issues raised at the meeting on 7 June 2004" [CB(1)2115/03-04 (01)]  (b) Members' view on HKSA's proposal of conducting disciplinary hearings in public as a norm	
001231- 002150	Chairman HKSA	Examination of proposed Committee Stage amendments provided by HKSA [CB(1)2115/03-04 (02)] (Revised)	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
002151 - 002712	Chairman ALA6 Ms Audrey EU Dr Eric LI Administration HKSA	Members' concern about the immunity provision under proposed section 53	
002713 - 002829	Chairman Dr Eric LI	(a) Members noted that no submission was received during the public consultation period  (b) The Bills Committee to report to the House Committee on 18 June 2004 recommending the resumption of the Second Reading debate on the Bill on 7 July 2004	

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