

立法會
Legislative Council

Ref : CB2/BC/4/03

LC Paper No. CB(2)2993/03-04
(These minutes have been seen by
the Administration)

Bills Committee on Criminal Procedure (Amendment) Bill 2004

**Minutes of the second meeting
held on Thursday, 10 June 2004 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Margaret NG (Chairman)
Hon Martin LEE Chu-ming, SC, JP
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP
Hon Ambrose LAU Hon-chuen, GBS, JP

Members absent : Hon James TO Kun-sun
Hon WONG Yung-kan
Hon Michael MAK Kwok-fung
Hon Audrey EU Yuet-mee, SC, JP

Public Officers attending : Mrs Jennie CHOK
Deputy Secretary for Security

Miss Ida LEE
Assistant Secretary for Security

Mr Michael Reid SCOTT
Senior Assistant Solicitor General

Mr Patrick CHEUNG
Senior Assistant Director of Public Prosecution

Ms Sherman CHAN
Senior Assistant Law Draftsman

Ms Diana LAM
Senior Government Counsel

Mr Michael LAM
Senior Government Counsel

Clerk in attendance : Mrs Sharon TONG
Chief Council Secretary (2)1

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2)5

I. Meeting with the Administration

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration -

- (a) to consider providing in the proposed section 67C(1) of the Criminal Procedure Ordinance (CPO) that the prescribed prisoners could apply to the court at public expenses for a determination under the section, if the Secretary for Justice (S for J) failed to submit an application within six months;
- (b) to consider amending the expression "when the prescribed prisoner was under 18 years of age, then, subject to the consent of the prescribed prisoner to the application of this subsection to the prescribed prisoner, the judge has the discretion as to" in the proposed section 67C(3) of CPO as "when he was under 18 years of age, then, subject to the prisoner's consent, the judge may in his discretion decide";

- (c) to consider amending the expression "be substituted by" in the proposed section 67C(3)(b) of CPO as "substituted with";
- (d) to consider specifying in the proposed section 67C(5) of CPO that the judge should in particular take into account any conditional release order in force in respect of a prescribed prisoner;
- (e) to consider amending the expression "previous determination" in the proposed section 67C(5)(b) of CPO as "previous determination by the Chief Executive";
- (f) to consider deleting the proposed section 67D(1) of CPO;
- (g) to consider adding a new subsection to the proposed section 67D(2) of CPO to require S for J to serve upon the prescribed prisoners copies of the application and accompanying documents;
- (h) to consider deleting ", other than the evidence given in those proceedings" in the proposed section 67D(3)(a) of CPO;
- (i) in relation to the proposed section 67F(2) of CPO, to consider -
 - (i) suspending the power of the Long-term Prison Sentences Review Board to direct conditional release of the prescribed prisoners upon the commencement of the Bill until a determination had been made under the Bill; or
 - (ii) allowing a conditional release order to remain valid even after a determinate sentence was imposed;
- (j) to consider capitalising the terms "previous determination" and "previous recommendation" in the proposed section 67G of CPO;
- (k) to consider revising the expression "as enacted by the Long-term Prison Sentences Review Ordinance" in the proposed section 67G(1) of CPO;
- (l) to consider simplifying the proposed Rule 2(3) of the Legal Aid in Criminal Cases Rules (LACCR);
- (m) to consider deleting "instituted in relation to him" in the proposed Rule 4(1)(ca) of LACCR; and
- (n) to provide the draft Committee Stage amendments to be proposed by the Administration.

3. The meeting ended at 10:40 am.

Council Business Division 2
Legislative Council Secretariat
30 June 2004

**Proceedings of the meeting of the
Bills Committee on Criminal Procedure (Amendment) Bill 2004
on Thursday, 10 June 2004 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000223	Chairman	Opening remarks	
000224 - 003234	Chairman Admin Hon Martin LEE Hon Andrew WONG SALA1	Providing in the proposed section 67C(1) of the Criminal Procedure Ordinance (CPO) that the prescribed prisoners could apply to the court at public expenses for a determination under the section, if the Secretary for Justice failed to submit an application within six months; deleting the proposed section 67D(1) of CPO	Admin to consider the suggestions
003235 - 003410	Chairman Admin	Adding a new subsection to the proposed section 67D(2) of CPO to require the Secretary for Justice to serve upon the prescribed prisoners copies of the application and accompanying documents	Admin to consider the suggestion
003411 - 003453	Chairman Admin	Examination of the proposed section 67E of CPO	
003454 - 012226	Chairman Admin SALA1 Hon Andrew WONG Hon Martin LEE	Examination of the proposed section 67F of CPO	Admin to consider suspending the power of the Long-term Prison Sentences Review Board to direct conditional release of the prescribed prisoners upon the commencement of the Bill until a determination had been made under the Bill or allowing a

Time marker	Speaker	Subject(s)	Action Required
			conditional release order to remain valid even after a determinate sentence was imposed in the proposed section 67F of CPO; to consider specifying in the proposed section 67C(5) of CPO that the judge should in particular take into account any conditional release order in force in respect of a prescribed prisoner
012227 - 013556	Chairman Admin Hon Martin LEE Hon Andrew WONG SALA1	Examination of the proposed section 67G of CPO	Admin to consider amending the expression "previous determination" in the proposed section 67C(5)(b) of CPO as "previous determination by the Chief Executive"; to consider capitalising the terms "previous determination" and "previous recommendation" in the proposed section 67G of CPO; to consider revising the expression "as enacted by the Long-term Prison Sentences Review Ordinance" in the proposed section 67G(1) of CPO

Time marker	Speaker	Subject(s)	Action Required
013557 - 015738	Chairman Admin Hon Martin LEE Hon LEUNG Yiu-chung SALA1	Examination of the consequential amendments in the Bill	Admin to consider simplifying the proposed Rule 2(3) of the Legal Aid in Criminal Cases Rules (LACCR); to consider deleting "instituted in relation to him" in the proposed Rule 4(1)(ca) of LACCR
015739 - 020552	Chairman Admin	Administration's response to issues raised at the first Bills Committee meeting (LC Paper No. CB(2)2691/03-04(01))	Admin to consider amending the expression "when the prescribed prisoner was under 18 years of age, then, subject to the consent of the prescribed prisoner to the application of this subsection to the prescribed prisoner, the judge has the discretion as to" in the proposed section 67C(3) of CPO as "when he was under 18 years of age, then, subject to the prisoner's consent, the judge may in his discretion decide"; to consider amending the expression "be substituted by" in the proposed section 67C(3)(b) of CPO as "substituted with"; to consider deleting ", other than the evidence given in those proceedings" in the proposed section 67D(3)(a) of CPO

Time marker	Speaker	Subject(s)	Action Required
020553 - 020645	Chairman Admin	Supplementary note to the Administration's response to issues raised at the first Bills Committee meeting (LC Paper No. CB(2)2738/03-04(01))	
020646 - 020731	Chairman	Date of next meeting	Admin to provide the draft Committee Stage amendments to be proposed by the Administration

Council Business Division 2
Legislative Council Secretariat
30 June 2004