

**Bills Committee on
Criminal Procedure (Amendment) Bill 2004**

**Administration's Response to
Issues raised at the 1st Bills Committee meeting
Supplementary Note**

Purpose

This paper supplements the Administration's response to the issues raised at the 1st Bills Committee meeting on 2 June 2004.

Right to apply for the provision of documents

2. In our last Administration's response (issue (i)), we considered that a right to apply to the judge for further records or documents after the case has been listed for hearing should be given to both parties, i.e. the prescribed prisoners and the Secretary for Justice. To this end, we propose to add the following subsection to the proposed section 67D –

“(3A) Where an application has been made in respect of a prescribed prisoner under section 67C(1), the Secretary for Justice or the prescribed prisoner may apply to a judge for –

- (a) a copy of the record, if available, of the proceedings concerning the prescribed prisoner (whether relating to the relevant offence or the relevant sentence) or any part or parts of the record; and*
- (b) a copy of any document in the possession of the Registrar,*

and if the judge is satisfied that it is necessary and practicable to do so, the judge must direct the Registrar to deliver the copy to both the Secretary for Justice and the prescribed prisoner.”

The judge may take into account any relevant material

3. The Administration further considers that provision should be made to permit the judge to take into account any relevant material when making a

determination. Subject to Members' views, we therefore propose to revise section 67C(5) to read as follows –

“(5) *In making a determination under this section –*

- (a) subject to paragraph (b), the judge may take into account any material submitted to him by the Secretary for Justice or the prescribed prisoner that is, in his opinion, relevant to the determination; and*
- (b) the judge must not take into account the previous recommendation or the previous determination.”*

Commencement date

4. To allow the prescribed prisoners to have their minimum terms or determination sentence (as the case may be) determined by the court as soon as possible, we consider that the Bill, if passed, should come into operation as soon as practicable. To avoid undue delay due to the summer recess of the Legislative Council and the need for negative vetting of any commencement notice, we propose immediate commencement of the Bill as enacted, i.e. commencement upon gazettal.

Security Bureau
10 June 2004