

立法會
Legislative Council

Ref : CB2/BC/4/04

LC Paper No.CB(2)2408/04-05
(These minutes have been seen
by the Administration)

**Bills Committee on Statute Law
(Miscellaneous Provisions) Bill 2005**

**Minutes of the sixth meeting
held on Thursday, 9 June 2005 at 11:30 am
in the Chamber of the Legislative Council Building**

Members present : Hon Margaret NG (Chairman)
Hon Miriam LAU Kin-ye, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon KWONG Chi-kin

Member absent : Hon Albert HO Chun-yan

Public Officers attending : Mr Stephen Kai-yi WONG
Deputy Solicitor General
Department of Justice

Mr Michael SCOTT
Senior Assistant Solicitor General
Department of Justice

Mr Michael LAM
Senior Government Counsel
Law Drafting Division
Department of Justice

Ms Vicki LEE
Senior Government Counsel
Law Drafting Division
Department of Justice

Ms Stella CHAN
Government Counsel
Legal Policy Division

Department of Justice
Miss Vega WONG
Assistant Judiciary Administrator (Development)
Judiciary Administration

Mr Sidney CHAN
Assistant Director
Administration Wing

Mr Mike BISHOP
Principal Investigator/Special Duties
Independent Commission Against Corruption

Miss Winnie CHUI
Assistant Secretary for Security (Narcotics)
Security Bureau

Clerk in attendance : Mrs Percy MA
Chief Council Secretary (2)3

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mr Paul WOO
Senior Council Secretary (2)3

Action

I. Meeting with the Administration

(LC Paper No. CB(2)1857/04-05(01) – Draft Committee Stage amendments (CSAs) to the Bill provided by the Administration)

The Bills Committee considered the draft CSAs to be moved by the Administration in conjunction with the marked-up copy of the CSAs (English version) prepared by the Legal Services Division which had been tabled at the meeting.

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

Proposed CSAs to introduce savings provisions in clause 15 of the Bill in relation to transfer of power to make rules from the Chief Justice (CJ) to the Chief Judge of the High Court (CJHC) under various Ordinances

3. The Chairman and Ms Audrey EU enquired about the reasons for introducing the savings provisions, which specified that any rules made, or any directions issued or given, under the relevant Ordinances by CJ which were in force immediately before

the commencement of clause 15, when enacted, should continue in force as if the rules were made, or the directions were issued or given, under those Ordinances by CJHC. The Administration replied that the proposed savings provisions would ensure the continuity of the existing rules and directions made by CJ, and enable CJHC to amend them after the transfer of power from CJ.

4. The Chairman considered that the existing provisions in section 28 of the Interpretation and General Clauses Ordinance (Cap. 1) on transfer of power to make subsidiary legislation were sufficient to deal with the issue in question. She requested the Administration to provide a written response to substantiate the grounds for introducing the amendments.

(Post-meeting note : The Administration's written response was issued to the Bills Committee on 14 June 2005 vide LC Paper No. CB(2)1921/04-05(01))

5. The Bills Committee completed the scrutiny of the CSAs and agreed to the proposed amendments.

6. The Chairman asked the Legal Adviser to the Bills Committee to study the Chinese version of the CSAs and advise whether they were in order after the meeting.

(Post-meeting note : The Legal Adviser had advised that the Chinese version of the CSAs were in order. Marked-up copies of the CSAs in both Chinese and English versions were issued to the Bills Committee on 14 June 2005 vide LC Paper No. CB(2)1921/04-05(02))

Legislative timetable

7. Members agreed that the Bills Committee would make a report on its deliberations on the Bill to the House Committee on 17 June 2005.

8. The Administration informed the Bills Committee that it would give notice to resume the Second Reading debate on the Bill at the Council meeting on 29 June 2005.

9. The meeting ended at 12:15 pm.

**Proceedings of the sixth meeting of the Bills Committee on
Statute Law (Miscellaneous Provisions) Bill 2005
on Thursday, 9 June 2005 at 11:30 am
in the Chamber of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000000 - 001307	Chairman Admin ALA5 Ms Audrey EU Ms Miriam LAU	Draft Committee Stage Amendments (CSAs) to be moved by the Administration. CSAs to introduce savings provisions in clause 15 of the Bill to specify that any rules or directions issued by the Chief Justice (CJ) under the relevant Ordinances should continue in force as if they were made by the Chief Judge of the High Court (CJHC), after the power to make the rules or directions was transferred from CJ to CJHC.	
001308 - 002054	Chairman Ms Miriam LAU Ms Audrey EU Admin	CSAs to amend the Dangerous Drugs Ordinance (DDO) to prohibit the subject of a section 53A(1) notice from leaving Hong Kong within a specified period, and matters relating to application of the person on whom the notice was served for permission to leave Hong Kong, including the right of the person to appeal or seek judicial review of the Magistrate's decision on his application.	
002055 - 002903	Chairman ALA5 Admin Ms Audrey EU	The criterion of "unreasonable hardship" to an applicant seeking permission to leave Hong Kong in proposed new section 17BA(3) of POBO for determining whether the application should be granted. The maximum period for which a subject person could be prohibited from leaving Hong Kong, before a decision whether to lay charge on the person was made.	
002904 - 003427	Chairman Admin	Proceedings conducted in chambers before a magistrate to determine an application for permission to leave Hong Kong under proposed new	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>section 17BA of POBO, following the same practice set out in existing section 17B(8) of POBO.</p> <p>Sections 105 and 113(3) of the Magistrates Ordinance relating to appeals.</p>	
003428 - 003539	Chairman Admin	CSAs to introduce a “without merit” criterion for the award of costs in the proposed sections 9B and 13B of the Costs in Criminal Cases Ordinance (clauses 37 and 38 of the Bill).	
003540 - 003607	Chairman	CSAs to clauses 66 and 198 of the Bill.	
003608 - 003849	ALA5 Chairman	Examination of the Chinese version of the CSAs.	
003850 - 004329	Admin Chairman	The Bills Committee’s concern about the necessity for introducing the proposed savings provisions in clause 15 of the Bill.	Admin to provide a response in writing to explain the grounds for introducing the savings provisions.
004330 - 004341	Chairman Admin	<p>Report of the Bills Committee to the House Committee on 17 June 2005.</p> <p>Resumption of the Second Reading debate on the Bill on 29 June 2005.</p>	