

立法會
Legislative Council

LC Paper No. CB(2)2064/04-05

Ref : CB2/BC/4/04

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

PURPOSE

This paper reports on the deliberations of the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2005.

THE BILLS COMMITTEE

2. At the House Committee meeting on 11 March 2005, members formed a Bills Committee to study the Bill. Under the chairmanship of Hon Margaret NG, the Bills Committee has held six meetings with the Administration. The Bills Committee has also invited the two legal professional bodies to give views on certain provisions of the Bill. The membership list of the Bills Committee is in **Appendix**.

THE BILL

3. The Bill is an omnibus Bill which seeks to make miscellaneous amendments to various ordinances for the purpose of improving, clarifying and updating the law and rectifying textual errors and omissions of consequential amendments in previous exercises.

4. The Bill comprises six Parts, 27 Divisions and 224 clauses. Part I contains the preliminary provisions. The amendments are grouped under the remaining five Parts along the following themes –

- (a) Part 2 – amendments relating to the transfer of functions and powers (clauses 3 to 15);
- (b) Part 3 – amendments relating to the change of name, the enhancement of operational efficiency and the refinement of statutory provisions (clauses 16 to 121);
- (c) Part 4 – amendments relating to judicial officers (clauses 122 to 175);

- (d) Part 5 – amendments relating to legal education and legal practitioners (clauses 176 to 178); and
- (e) Part 6 – minor amendments (clauses 179 to 224).

DELIBERATIONS OF THE BILLS COMMITTEE

Part 2 – amendments relating to the transfer of functions and powers

Amendments to the Medical Clinics Ordinance (Cap. 343) and the Administrative Appeals Board Ordinance (Cap. 442) (clauses 6 to 7)

5. The Bill proposes to transfer the power to determine appeals under the Medical Clinics Ordinance (MCO) from the Chief Executive in Council to the Administrative Appeals Board (AAB). Members have requested the Administration to explain the nature of the appeals dealt with under MCO, the grounds for the proposed transfer of function, and whether the relevant parties have been consulted on the proposal.

6. The Administration has explained that prior to the establishment of AAB, many of the appeals which went to the Executive Council involved matters of a relatively minor nature, such as the issue, renewal and revocation of various licences. It was decided to establish AAB in 1994 and transfer to it appeals of a general and minor nature, whereas appeals which might have important policy and political implications would continue to be dealt with by the Executive Council. At the time of establishment of AAB, appeals under 25 ordinances were transferred to AAB. The appeals dealt with under MCO are related to decisions made by the Director of Health, who is the Registrar of Clinics as defined under section 3 of the MCO, on matters concerning registration of clinics, such as the refusal of an application for registration or de-registration.

7. In view of the fact that the appeals to be dealt with under MCO are relatively minor and administrative in nature, and do not have important socio-political or economic implications, the Administration considers that the proposed transfer of power is desirable. Since the proposed change is considered a technical issue and will not compromise the right to appeal as provided for in MCO, no consultation has been conducted.

8. Members have further enquired about the composition of AAB, and the respective procedures for handling appeals by the Chief Executive in Council and AAB. The Administration has explained that AAB currently consists of one Chairman, two Deputy Chairmen and a panel of 46 members. The Chairman or Deputy Chairman of AAB shall be persons who are qualified for appointment as District Judges under section 5 of the District Court Ordinance (Cap. 336).

9. As regards the procedure, the Administration has pointed out that the

deliberation of appeals by the Chief Executive in Council is not open to the public. Neither officials of the Department of Health nor the appellant will be present during the consideration of the appeals. However, the procedure of AAB is more transparent and open. The hearing of an appeal to AAB shall be in public except in special circumstances provided for in Cap. 442. In addition, parties to an appeal may be present at the hearing of the appeal and may make representations or be represented either by a barrister or a solicitor or, with the approval of the Secretary of the Board, by any other person authorised by any of the parties in writing.

10. While members have no objection to the proposed transfer of function, they have requested the Administration to consult the affected parties on any proposals relating to transfer of functions and powers as a matter of practice in future. They have also requested the Administration to publicise the details of the new procedure for determining appeals under MCO for information of the relevant parties.

Amendments to the High Court Ordinance (Cap. 4), District Court Ordinance (Cap. 336) and the Criminal Procedure Ordinance (Cap. 221) (clauses 8 to 10)

11. The proposed amendments will give effect to the transfer from the Chief Justice to the Chief Judge of the High Court the chairmanship of the High Court Rules Committee (HCRC), the District Court Rules Committee (DCRC), and the Criminal Procedure Rules Committee (CPRC).

12. The Hong Kong Bar Association has pointed out that with the implementation of the civil justice reform in the Judiciary, the Chief Justice has entrusted the Chief Judge of the High Court with carriage thereof. As the Rules of the High Court and the Rules of the District Court are largely identical, it is understandable for the Chief Judge of the High Court to head the relevant Rules Committees. However, these considerations may not serve as justifications for transferring the chairmanship of CPRC from the Chief Justice to the Chief Judge of the High Court.

13. The Bills Committee has requested the Judiciary to provide justifications for the proposed transfer of chairmanship of CPRC. Members are of the view that the rules and orders made by CPRC cover wide-ranging matters in criminal proceedings at different levels of court. As such, they differ in nature from the Rules of the High Court and Rules of the District Court. It may not be appropriate to transfer the chairmanship of CPRC from the Chief Justice to the Chief Judge of the High Court.

14. The Judiciary Administration has advised that the Criminal Procedure Ordinance (CPO) makes provisions relating to criminal procedures, evidence and practice. The provisions apply mainly to the High Court, including the Court of First Instance acting in the exercise of its criminal jurisdiction, and the Court of Appeal. Certain parts of CPO also apply to the District Court and the Magistrates' Courts. In response to the request of the Bills Committee, the Judiciary Administration has provided information on the scope of CPO and the rules made by CPRC for information of members.

15. The Judiciary considers that it is more appropriate for the Chief Judge of the High Court, as the court leader of the High Court, to chair CPRC and to make rules under CPO, having regard to the following –

- (a) the Court of First Instance of the High Court has unlimited jurisdiction in all criminal matters. The more serious criminal offences are tried at the Court of First Instance. The Court of First Instance also has criminal appellate jurisdiction in respect of Magistracy appeals. The Court of Appeal of the High Court hears criminal appeals from the Court of First Instance and the District Court;
- (b) the scope of CPO covers the various stages of criminal proceedings in the High Court, and certain parts of CPO also apply to the District Court and the Magistrates Courts;
- (c) the rules made under CPO, either by CPRC or the Chief Justice, mainly regulate procedural matters of criminal proceedings in the High Court and the courts below; and
- (d) a large proportion (about 96%) of the expenses of legal aid in criminal cases is on cases at the High Court or the courts below.

16. While the majority of members of the Bills Committee have no objection to the proposed amendments, Hon Margaret NG has expressed reservation about the transfer of the chairmanship of CPRC from the Chief Justice to the Chief Judge of the High Court, as the CPRC also makes rules on matters beyond the High Court, e.g. the Legal Aid in Criminal Cases Rules.

Amendments to the Matrimonial Causes Ordinance (Cap. 179) (clauses 11 to 15)

17. The proposed amendments seek to transfer the rule-making and related powers under the Matrimonial Causes Ordinance from the Chief Justice to the Chief Judge of the High Court, as the rules made under the Ordinance apply to matrimonial proceedings in the High Court and the District Court.

18. Since the publication of the Bill, the Judiciary has noted that the Chief Justice has residual rule-making powers under the CPO, High Court Ordinance (HCO) and District Court Ordinance (DCO). Following the transfer of the chairmanship of HCRC, CPRC, and DCRC to the Chief Judge of High Court, it is considered necessary to introduce amendments to Division 5, Part 2 of the Bill to transfer the rule-making power of the Chief Justice under the following three Ordinances to the Chief Judge of High Court –

- (a) section 57 of HCO – in respect of rules concerning deposit, etc. of moneys, etc. in the High Court,
- (b) sections 79D and 79G under Part IIIA of CPO – in respect of special

procedures for vulnerable witnesses;

- (c) section 79L under Part IIIB of CPO – in respect of taking evidence from witnesses outside Hong Kong by live television link; and
- (d) section 73 of DCO – in respect of suitors’ funds rules.

Part 3 – amendments relating to the change of name, the enhancement of operational efficiency and the refinement of statutory provisions

Amendments to the Chinese University of Hong Kong Ordinance (Cap. 1109) (clauses 16 to 26)

19. Clauses 16 to 26 seek to change the Chinese name of the Convocation of The Chinese University of Hong Kong from “評議會” to “校友評議會” to reflect more accurately that it is an organization with alumni as its members. The English name of the Convocation will remain unchanged.

20. In response to the enquiry of the Bills Committee, the Administration has advised that amongst the local universities, only the Chinese University of Hong Kong and the University of Hong Kong (HKU) have, at present, established a Convocation in accordance with their governing legislation. The Chinese name of HKU’s Convocation is “畢業生議會”.

Amendments to the Legal Aid Services Council Ordinance (Cap. 489) (clauses 27 to 29)

21. The Legal Aid Services Council (LASC) was established in September 1996 under the Legal Aid Services Council Ordinance to supervise the provision of legal aid services by the Legal Aid Department, and to advise the Chief Executive on legal aid policy. Clauses 27 to 29 of the Bill propose to introduce the following amendments to enhance its powers and operational efficiency -

- (a) to confer upon LASC the power to appoint its own staff;
- (b) to confer upon LASC the power to enter into contracts on its own; and
- (c) to extend the deadline for LASC to submit its annual report.

22. In respect of paragraph 21(c) above, the Bills Committee has noted that at present, section 12(1) of the LASC Ordinance provides that LASC shall submit an annual report within six months of the end of each financial year to the Chief Executive. The Bill seeks to extend the time of submission from six months to nine months and to provide the Chief Executive with the power to extend the deadline. The Bills Committee has requested the Administration to explain the grounds for extending the deadline for LASC to submit its annual report.

23. The Administration has explained that as the financial year of LASC ends on 31 March, it has to submit the annual report to the Chief Executive by the end of September of the year under the existing provisions. With the increasing workload since its establishment in 1996, and in view also of the intervening summer holiday, the LASC Secretariat finds it operationally difficult to complete the required work in time to meet the statutory deadline. It is considered necessary to ensure that LASC has sufficient time and flexibility to prepare an annual report of the required quality, bearing in mind that all the members serve on the LASC on a non-remunerated and part-time basis. At the request of the Bills Committee, the Administration has provided information on the time limit for submission of annual reports by a number of statutory bodies, which ranges from three months to nine months. In the view of the Administration, it is not uncommon to allow nine months for statutory bodies to submit their annual reports, and to provide the executive with a power to extend the deadline if necessary.

24. Members consider that the staffing requirement of the LASC Secretariat may need to be addressed separately by the Administration. While members have no strong view about the proposed amendment, they consider that there should not be undue delay for statutory bodies in preparing their annual reports, and there should be consistency in the time limit within which statutory bodies should submit their annual reports. Some members consider that a time limit of three months appears to be reasonable. The Bills Committee has requested the Administration to conduct a review of the time limit for submission of annual reports by statutory bodies. The Administration has advised that the Home Affairs Bureau, which is currently conducting a review of advisory and statutory bodies, has agreed that the request will be included in the agenda of the review. The Bureau will report its work progress to the Panel on Home Affairs in due course.

Amendments to the Firearms and Ammunition Ordinance (Cap. 238) (clause 34)

25. Section 20(1) of the Firearms and Ammunition Ordinance provides that any person who is in possession of an imitation firearm commits an offence and is liable to imprisonment for two years. Section 20(2) of the Ordinance provides that any person who, within 10 years of being convicted of an offence specified in the Schedule or of an offence under that Ordinance, commits an offence under subsection (1) is liable to imprisonment for seven years.

26. The Administration has explained that according to section 14A of CPO, the offence of possessing an imitation firearm is a summary offence, and will be triable summarily before a magistrate, unless it is transferred to the District Court with another indictable offence under section 88 of the Magistrates Ordinance (Cap. 227). By virtue of section 20(2) of the Firearms and Ammunition Ordinance, a magistrate therefore has the power to impose imprisonment for seven years. Given that the jurisdiction of the District Court to impose imprisonment in criminal matters is subject to a maximum of seven years, it is an anomaly for a magistrate to be empowered to impose imprisonment of seven years.

27. Clause 34 of the Bill proposes to make the offence triable in the District Court and Court of First Instance. Under the proposal, a sentence under section 20(2) of the Firearms and Ammunition Ordinance exceeding two years' imprisonment can only be imposed, if the defendant is convicted on indictment by the District Court or the Court of First Instance. The maximum term of imprisonment the magistrate can impose for offences dealt with by a magistrate summarily under sections 91 and 92 of the Magistrates Ordinance will be two years.

28. The Administration has subsequently advised the Bills Committee that in HKSAR v. LAM Kwong-wai and Another C.A. 213/2003, it was held that section 20(1) of the Firearms and Ammunition Ordinance was inconsistent with the Bill of Rights, as and when read with section 20(3)(c). In April 2005, the Administration has been granted leave to appeal to the Court of Final Appeal, and has to wait several months for the final appeal to be heard. In the circumstances, the Administration will move an amendment to withdraw the present amendments from the Bill, pending a decision on final appeal.

Amendments to the Prevention of Bribery Ordinance (Cap. 201) (clauses 35 to 36)

Surrender of travel documents under section 17A of the Prevention of Bribery Ordinance (POBO)

29. The Administration has explained that section 17A(1) of POBO provides that a magistrate may, on the application ex parte of the Commissioner of the Independent Commission Against Corruption (ICAC), by written notice require a person who is the subject of an investigation in respect of an offence reasonably suspected to have been committed by him under POBO to surrender his travel document from leaving Hong Kong. Before 1987, possession of a travel document was a prerequisite for a person who wished to depart from Hong Kong, and a person with no travel document was therefore unable to leave Hong Kong. However, with the introduction of the "Easy Travel Scheme" in 1987, it is possible for a Hong Kong resident to leave Hong Kong for Macau on production of a Hong Kong identity card at immigration control points. Immigration Officers have no power, by virtue of a notice issued under section 17A(1), to prevent persons holding Hong Kong identity cards from leaving Hong Kong for Macau.

30. To address this loophole, the Administration has proposed to introduce amendments to section 17A of POBO. The proposed amendments seek to achieve two objectives. First, to prohibit a person who is the subject of a section 17A(1) notice from leaving Hong Kong during its currency. Second, to clarify that Police officers and persons appointed by the Commissioner of ICAC have the power to arrest a person who has failed to comply with the notice under section 17A(1) to surrender his travel documents.

31. The Bills Committee has expressed concern how the law will be enforced after passage of the Bill. The Administration has explained that under proposed section 17A(3), a person on whom a section 17A(1) notice has been served will be placed on

the Immigration Watch List. Should he attempt to leave Hong Kong, he will be stopped by Immigration Officers at the immigration control points and his departure from Hong Kong denied. Under proposed section 17A(4), if the person fails to comply with the notice to surrender all his travel documents, he may thereupon be arrested by the Police or ICAC officers and taken before the magistrate. The magistrate may commit him to prison to be safely kept until he surrenders all his travel documents.

32. Members have pointed out that the word “thereupon” in section 17A(4) seems to restrict the time for carrying out of an arrest to the specific point in time when the person fails to comply with the notice under section 17A(1). After that point in time, the person could no longer be arrested. The Administration agrees that the word “thereupon” is subject to slightly different interpretations. To avoid any possible confusion, it will move an amendment to delete the word “thereupon” and “因此” from section 17A(4) of POBO.

Legal liability under sections 17A and 17B of POBO

33. Members consider that a person on whom a notice is served under section 17A(1) should be entitled to know his legal liability under sections 17A and 17B. In response to the request of members, the Administration has provided a sample of the written notice issued by a magistrate to a person under section 17A(1) for reference of the Bills Committee. Members consider that the wording and format of the written notice should be revised so that the person will know his legal liability under sections 17A and 17B of POBO.

34. The Administration has agreed in principle that the written notice could be revised by –

- (a) specifying the timeframe to surrender the travel documents;
- (b) explaining the recipients’ legal liability under sections 17A and 17B of POBO; and
- (c) attaching to it copies of sections 17A and 17B of POBO.

35. As the notice is a court document, the Administration will need to consult the Judiciary and obtain its agreement to the changes. The Bills Committee agrees that the amendments to the notice should not inhibit this legislative amendment exercise.

36. The Administration has proposed to amend sections 17A to provide that a person who is the subject of a section 17A(1) notice shall not leave Hong Kong before the expiry of a period of six months from the date of the notice, and the period could be extended for a further period of three months if a magistrate, on application of the Commissioner, is satisfied that the investigation could not be completed before the date of such application.

Proposed section 17BA (Permission to leave Hong Kong)

37. As a person who is the subject of a section 17A(1) notice can leave Hong Kong for Macau using his Hong Kong Identity Card, members have further suggested that additional provisions should be included in the Bill to deal with the situation under which a person, after surrendering his travel document under section 17A, seeks permission to leave Hong Kong without the need to apply for return of his travel document under section 17B.

38. Having considered members' suggestion, the Administration has agreed to add a proposed section 17BA to allow a person on whom a notice under section 17A(1) is served to apply for permission to leave Hong Kong. The existing section 17C will also be amended to provide that any deposit made or recognizance entered into under the proposed section 17BA may be forfeited, if the person fails to comply with any condition imposed under the section.

Proposed amendments to the Dangerous Drugs Ordinance (Cap. 134) (new proposed clauses 34A and 34B)

39. In the course of the discussing clauses 35 and 36 of the Bill, the Administration has advised the Bills Committee that the Dangerous Drugs Ordinance (DDO) is the only other Ordinance which contains provisions (sections 53A and 53B) having similar technical problem as sections 17A and 17B of POBO since the introduction of the "Easy Travel Scheme". The Bills Committee has requested the Administration to consider introducing amendments to DDO in the context of the Bill, in order to tackle the lack of provisions to effectively prevent a person who is the subject of a section 53A(1) notice from leaving Hong Kong.

40. The Administration has explained that section 53A has rarely, if ever, been invoked, as most drug investigations are of a covert nature to reduce opportunities for destruction of evidence by the subjects under investigation. The application of section 53A would inevitably alert the subject. Usually, persons reasonably suspected to have committed a crime under DDO are charged and are brought into judicial proceedings and subject to court orders in respect of right to leave Hong Kong. In practice, the court will order such person to surrender his travel document and restrict him from leaving Hong Kong, and impose certain conditions it thinks necessary. This has proven effective in preventing persons wanted for drug investigations from leaving Hong Kong.

41. In view of the legal anomaly, the Administration agrees that amendments to DDO are necessary, although section 53A has rarely been invoked. In the circumstances, the Administration has agreed –

- (a) to add a new provision to section 53A providing that the subject of a section 53A(1) notice shall not leave Hong Kong before the expiry of a period of three months from the date of the notice, which is in line with the period of which surrendered travel document can be detained. This

period of three months may be further extended in line with the detention period of the travel document;

- (b) to add a proposed section 53C to enable a subject of a section 53A(1) notice to apply for permission to leave Hong Kong. It is proposed that such application be made in the same manner as application for return of travel document under existing section 53B.

Amendments to the Costs in Criminal Cases Ordinance (Cap. 492) (clauses 37 to 38)

42. Clauses 37 and 38 of the Bill seek to amend sections 9 and 13 of the Costs in Criminal Cases Ordinance (CCCO) so that where the prosecutor or a defendant unsuccessfully applies to the Court of Appeal or the Court of First Instance for a certificate under section 32 of the Hong Kong Court of Final Appeal Ordinance (CFA Ordinance) (Cap. 484), the Court of Appeal or the Court of First Instance may order that costs be awarded to the prosecutor or the defendant.

43. The Administration has explained that under section 32 of CFA Ordinance (Cap. 484), no appeal shall be admitted unless leave to appeal has been granted by the Court. Leave to appeal shall not be granted unless it is certified by the Court of Appeal or the Court of First Instance, as the case may be, that a point of law of great and general importance is involved in the decision. Where the Court of Appeal or the Court of First Instance declines to certify, the Court of Final Appeal may so certify and grant leave to appeal. When an appeal is dismissed by the Court of Appeal or the Court of First Instance, the appellant can apply for a certificate under section 32 of the CFA Ordinance immediately. No questions of costs will arise in such cases. The Administration has also explained that, appellants, however, very often do not apply for the certificate at the conclusion of the appeal but make applications later by way of a motion. The respondent would then incur costs. However, there is no provision for an award of costs in those circumstances. In its judgment delivered on the 13th June 2001 on HKSAR v WONG Wah-ye, CACC 40/2000, the Court of Appeal confirmed that they had no power inferentially nor does a Judge of the Court of First Instance, and that this lacuna is regrettable and should be addressed.

44. Both the Hong Kong Bar Association and the Law Society of Hong Kong have expressed reservations about the proposal. The Bar Association objects any legislative provision for an award of costs by the lower courts upon an unsuccessful application for a certificate under section 32(2) of the CFA Ordinance. The Bar Association is of the view that it is unsatisfactory for the lower courts to consider the question of costs when the substantive issue has yet to be finally determined. In addition, the Court of Final Appeal has discretion to make award of costs, including costs in the courts below, under section 43 of the CFA Ordinance. This provision would be sufficient to cover costs unnecessarily incurred by any party as a result of unmeritorious applications in the Court of Final Appeal and in the lower courts. The Law Society considers that it is a fundamental right of a person to appeal and the proposal could exert pressure on an intending appellant to give up his right to appeal.

45. The Administration has reiterated that the purpose of the amendments is to save court time and resources by discouraging wholly unmeritorious appeals. It has also explained that if the Court of Final Appeal eventually allows an appeal, the appellant can apply to that court to get his costs back. The proposed power of the lower court to award costs is considered necessary since if the applicant does not proceed to the Appeals Committee the decision of the lower court will be final.

46. Some members have pointed out that clauses 37 and 38 do not reflect the policy intention to target unmeritorious applications, and have suggested that a “without merit” criterion should be introduced in the proposed sections 9B and 13B of the CCC Ordinance, to be in line with section 13 of the Ordinance. The Administration has agreed to take on board members’ suggestion by introducing amendments to the Bill.

Amendments relating to the finality of appeals (clauses 39 to 121)

47. The Administration has advised the Bills Committee that in December 2003, the Court of Final Appeal decided in A Solicitor v The Law Society of Hong Kong & Secretary for Justice (Intervener) [2004] 1 HKLRD 214 that the finality provision in section 13(1) of the Legal Practitioners Ordinance (Cap 159) was invalid. Section 13(1) of the Ordinance provides that an appeal shall lie to the Court of Appeal against any order of a Solicitors Disciplinary Tribunal. It also provides that “the decision of the Court of Appeal on any such appeal shall be final” (the finality provision). The grounds of the Court of Final Appeal’s decision were that the finality provision was void under the Colonial Laws Validity Act 1865 before Reunification, and the finality provision was inconsistent with the Basic Law after Reunification.

48. Sixteen Ordinances have been identified by the Administration as containing provisions which are identical to the finality provision in all material respects. In order to give effect to the Court of Final Appeal’s judgment, the Administration has proposed that –

- (a) the finality provisions should be repealed; and
- (b) consequential amendments should be made to provide that, in respect of a certain action (e.g., the publication of a disciplinary order in the Gazette) or a certain order, the time at which such action is to be carried out or, as the case may be, such order is to take effect, is to be determined by reference to an appeal to the Court of Final Appeal or, if applicable, to the Court of Final Appeal.

49. Clauses 39 to 121 of the Bill seek to amend 16 Ordinances to give effect to the Court of Final Appeal judgment by repealing certain finality provisions and by making consequential amendments. The Ordinances are –

- (a) Professional Accountants Ordinance (Cap. 50);

- (b) Dentists Registration Ordinance (Cap. 156);
- (c) Legal Practitioners Ordinance (Cap. 159);
- (d) Medical Registration Ordinance (Cap. 161);
- (e) Midwives Registration Ordinance (Cap. 162);
- (f) Nurses Registration Ordinance (Cap. 164);
- (g) Supplementary Medical Professions Ordinance (Cap. 359);
- (h) Architects Registration Ordinance (Cap. 408);
- (i) Engineers Registration Ordinance (Cap. 409);
- (j) Surveyors Registration Ordinance (Cap. 417);
- (k) Planners Registration Ordinance (Cap. 418);
- (l) Land Survey Ordinance (Cap. 473);
- (m) Social Workers Registration Ordinance (Cap. 505);
- (n) Landscape Architects Registration Ordinance (Cap. 516);
- (o) Chinese Medicine Ordinance (Cap. 549); and
- (p) Housing Managers Registration Ordinance (Cap. 550).

50. The Administration has advised the Bills Committee that the relevant professional bodies have been consulted, and do not object, in principle, to the proposed repeal of the relevant finality provisions.

Part 4 – amendments relating to judicial officers

51. The Bills Committee has not raised any queries on clauses 122 to 175 in Part 4 of the Bill which seek –

- (a) to amend the Judicial Officers Recommendation Commission (JORC) Ordinance (Cap. 92) to require a member of the JORC who may be selected to fill a vacancy in judicial offices to disclose whether or not, if he were to be selected, he is willing to accept the appointment;
- (b) to update the list of judicial offices in the JORC Ordinance; and
- (c) to amend a number of Ordinances to make provisions or further provisions for the professional qualifications of certain judicial officers.

Part 5 – amendments relating to legal education and legal practitioners

52. The Bills Committee has noted that clauses 176 to 178 in Part 5 of the Bill seek to amend the Legal Practitioners Ordinance (Cap. 159) –

- (a) to include two representatives of The Chinese University of Hong Kong in the Standing Committee on Legal Education and Training established by the Ordinance; and
- (b) to clarify that the Council of The Law Society of Hong Kong may make rules to provide for the professional practice of any solicitor and to make indemnity rules in respect of any solicitor's practice, whether or not the solicitor is engaged in private practice.

53. In respect of paragraph 52(b) above, the Administration has advised the Bills Committee that consultation has been made with the Hong Kong Corporate Counsel Association which does not object to the proposed amendments.

Part 6 – minor amendments

54. The Bills Committee has noted that Part 6 of the Bill (clauses 179 to 224) contains miscellaneous amendments of a minor nature to certain statutes.

FOLLOW- UP ACTION BY THE ADMINISTRATION

55. The Administration has undertaken to follow up the following issues –

- (a) to conduct a review on the time limit for statutory bodies to submit their annual reports and report the outcome to the Panel on Home Affairs (paragraph 24 above refers); and
- (b) to revise the written notice issued by a magistrate under section 17A(1) of POBO (paragraph 34 above refers).

COMMITTEE STAGE AMENDMENTS

56. The Committee Stage Amendments to be moved by the Administration to the Bill are supported by the Bills Committee.

CONSULTATION WITH THE HOUSE COMMITTEE

57. The Bills Committee made a report on its deliberations to the House Committee on 24 June 2005 and recommended support of the resumption of the

Second Reading debate on the Bill at the Council meeting on 29 June 2005.

Council Business Division 2
Legislative Council Secretariat
23 June 2005

Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2005

Membership list

Chairman Hon Margaret NG

Members Hon Albert HO Chun-yan
Hon Miriam LAU Kin-yee, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon KWONG Chi-kin

(Total : 5 Members)

Clerk Mrs Percy MA

Legal Adviser Miss Kitty CHENG

Date 31 March 2005