

立法會
Legislative Council

Ref : CB2/BC/12/04

LC Paper No. CB(2) 2460/04-05
(These minutes have been seen by
the Administration)

**Bills Committee on
Marriage (Introduction of Civil Celebrants of Marriages and
General Amendments) Bill**

**Minutes of the third meeting
held on Wednesday, 13 July 2005 at 8:30 am
in Conference Room A 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 LI Kwok-ying, MH
Hon Albert Jinghan CHENG

Member absent : Hon Andrew CHENG Kar-foo

Public Officers attending : Mr Michael WONG
Deputy Secretary for Security

Mr Alan CHU
Principal Assistant Secretary for Security

Ms Anne TENG
Assistant Secretary for Security

Mr Gilbert MO
Deputy Law Draftsman (Bilingual Drafting and Administration)
Department of Justice

Ms Grace LEUNG
Government Counsel
Department of Justice

Mr TSOI Hon-kuen
Assistant Director (Personal Documentation)
Immigration Department

Mr SHAM Hi-keung
Principal Immigration Officer (Documents)
Immigration Department

Mr CHOW Kun-wah
Assistant Principal Immigration Officer
(Births, Deaths and Marriage Registration)
Immigration Department

Attendance by invitation : The Law Society of Hong Kong

Mr Partick MOSS
Secretary General

Mr Herbert H K TSOI
Chairman of the Working Party

Ms Sylvia SIU
Member of the Working Party

Hong Kong Society of Notaries

Mr Lester HUANG
Vice President

Mr MA Ching-nam
Council Member

Ms AU Miu-po
Standards and Development Committee Member

Clerk in attendance : Mrs Constance LI
Chief Council Secretary (2)5

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

Miss Betty MA

Senior Council Secretary (2)1

Ms Anna CHEUNG
Legislative Assistant (2)5

I. Confirmation of minutes of meeting

[LC Paper Nos. CB(2)2195/04-05]

The minutes of meeting on 21 June 2005 were confirmed.

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

II. Meeting with deputations

3. The Subcommittee noted the submissions from the Hong Kong Bar Association and from Mr YIP Ming.

(Post-meeting note : The submissions were circulated to members vide LC Paper No. CB(2) 2266/04-05 on 14 July 2005 and CB(2) 2239/04-05 on 11 July 2005 respectively.)

4. Mr Patrick MOSS presented the views of The Law Society of Hong Kong as follows –

- (a) solicitors in practice were already covered by professional indemnity which would include celebration of marriages;
- (b) the proposed seven-year post-qualification experience for solicitors to be eligible for appointment as civil celebrants was agreeable. The Law Society of Hong Kong would be able to certify the aggregate practising period of its professional members;
- (c) fees to be charged by civil celebrants of marriages should more appropriately be determined by market force;
- (d) there was no apparent conflict of interest for civil celebrants to solemnize marriages for their own relatives. However, a civil celebrant should not also serve as a witness to a marriage at the same time; and
- (e) briefing sessions for civil celebrants would be included in the continuing legal education courses.

5. Mr Lester HUANG presented the views of Hong Kong Society of Notaries as follows –

- (a) notaries public were not subject to compulsory professional indemnity. However, the vast majority of notaries public were solicitors holding practising certificates (except ten members) issued under the Legal Practitioners Ordinance, and they were already covered by professional indemnity under the Solicitors (Professional Indemnity) Rules;
- (b) the Society did not have specific view on the eligibility criteria for civil celebrants, as all notaries public met the requirements for appointment as civil celebrants; and
- (c) the Society shared the views of The Law Society of Hong Kong regarding civil celebrants solemnizing marriages for their own relatives and fees to be charged by civil celebrants of marriages.

III. Meeting with the Administration

(a) Administration's response to outstanding issues
[LC Paper No. CB(2) 2251/04-05(01)]

6. Members noted the Administration's paper responding to issues raised at the previous meetings on 21 June and 4 July 2005.

7. Mr LEE Kwok-ying declared that he possessed the proposed requirements for appointment as civil celebrant.

8. Mr Albert CHENG held a strong view that, to be consistent with the spirit of providing flexibility for celebrating marriages, ministers should be allowed to celebrate marriages outside licensed places of worship without having to apply for a special licence under section 22 of the Marriage Ordinance. Mr CHENG said that he would not support the Bill if the Administration did not accept his suggestion. Deputy Secretary for Security reiterated the Administration's explanation as stated in paragraphs 5 to 6 of its paper [LC Paper No. CB(2) 2251/04-05(01)].

9. The Administration was requested to provide written response to the following -

- (a) the submissions from the Hong Kong Bar Association and from Mr YIP Ming; and
 - (b) suggestion of stipulating in the legislation that a civil celebrant should not also serve as a witness to a marriage at the same time.
- (b) Clause-by-clause examination

(from C1327 of the Bill onwards)

10. The Bills Committee continued clause-by clause examination of the Bill, and completed scrutiny up to clause 12 of the Bill.

11. The Administration was requested to consider the following suggestions and provide a response –

- (a) suggestion of including a schedule to the Marriage Ordinance to specify the impediment of kindred or alliance or any other lawful hindrance to the marriage referred to in section 12;
- (b) whether schedule 4 to the Bill would be amended to include ministers as being eligible for appointment as civil celebrants; and
- (c) moving Committee Stage amendments to amend the proposed section 12(1)(b)(i), and to delete clause 7 and the new section 6(A)2 under clause 6.

Date of future meetings

12. The Chairman reminded members that the next meeting had been scheduled for 21 July 2005.

13. The meeting ended at 10:25 am.

Council Business Division 2
Legislative Council Secretariat
18 August 2005

**Proceedings of the meeting of the Bills Committee on
Marriage (Introduction of Civil Celebrants of Marriages and
General Amendments) Bill
on Wednesday, 13 July 2005 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
0001-0753	Chairman	Welcoming remarks	
0754-1128	Miriam LAU Chairman Admin	Administration's response to outstanding issues raised at previous meetings [LC Paper No. CB(2) 2251/04-05(01)]	
1129-1516	Chairman The Law Society of Hong Kong	Presentation of views by The Law Society of Hong Kong	
1517-1837	Chairman Hong Kong Society of Notaries	Presentation of views by the Hong Kong Society of Notaries	
1838-2926	Miriam LAU Admin The Law Society of Hong Kong Audrey EU	Professional indemnity for celebration of marriages by civil celebrants; Liability of civil celebrants, ministers and Registrar of Marriages in celebrating marriages; Suggestion of specifying in the Bill that civil celebrants should not also serve as witness to a marriage at the same time	Admin to provide response
2927-4759	Chairman Hong Kong	Fees to be charged by civil celebrants of marriages	

Time Marker	Speaker(s)	Subject(s)	Action required
	Society of Notaries The Law Society of Hong Kong Audrey EU Miriam LAU		
4800-5045	Miriam LAU The Law Society of Hong Kong Chairman	Counting the years of post-qualification experience of a solicitor	
5046-5333	Chairman Admin	Written submissions from Hong Kong Bar Association and Mr YIP Ming	Admin to provide response
5334-5759	Chairman Admin	Clause-by-clause examination of the Bill (New sections 5F, 5G, 5H, 5I and 5J)	
5800-010000	Chairman Admin	Drafting of new section 5E	Admin to consider the Hong Kong Bar Association's suggestion
010001-010207	Chairman Admin	New sections 5L and 5M, and clause 5	
010208-011213	Chairman Admin Miriam LAU Audrey EU	Drafting of clauses 6 and 7	Admin to move CSAs to delete the new section 6(A)2 under clause 6, and clause 7
011214-011429	Chairman SALA1 Audrey EU Miriam LAU	Drafting of clauses 8 and 9	Admin to move a CSA to amend the proposed section 12(1)(b)(i) under clause 9

Time Marker	Speaker(s)	Subject(s)	Action required
011430-011725	Audrey EU Chairman Admin	Suggestion of including a schedule to the Marriage Ordinance to specify the impediment of kindred or alliance or any other lawful hindrance to the marriage referred to in section 12	Admin to provide response
011726-012435	Chairman Admin Audrey EU SALA1	Clauses 10 and 11; Amendments to headings of sections in the Ordinance and presentation of the marked-up copy of the Bill	
012436-014038	Albert CHENG Admin Chairman LI Kwok-ying SALA1	Ministers to celebrate marriages outside licensed places of worship; Suggestion of amending Schedule 4 to the Bill to include ministers as being eligible for appointment as civil celebrants	Admin to provide response
014039-015255	Audrey EU Admin Chairman SALA1	Presentation in a bill concerning amendments to headings of an ordinance	
015256-015418	Chairman	Date of next meeting	