立法會 Legislative Council

Ref : CB2/BC/12/04 <u>LC Paper No. CB(2) 394/05-06</u>

(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 seventh meeting held on Tuesday, 25 October 2005 at 8:30 am in Conference Room A of the Legislative Council Building

Members : Hon Margaret NG (Chairman)

present Hon Miriam LAU Kin-yee, GBS, JP

Hon Andrew CHENG Kar-foo Hon Audrey EU Yuet-mee, SC, JP

Hon LI Kwok-ying, MH

Member: Hon Albert Jinghan CHENG

absent

Public Officers: Mr Michael WONG

attending 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

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

Clerk in : Mrs Constance LI

attendance Chief Council Secretary (2)5

Staff in : Mr LEE Yu-sung

attendance Senior Assistant Legal Adviser 1

Mr Arthur CHEUNG

Senior Assistant Legal Adviser 2

Miss Lolita SHEK

Senior Council Secretary (2)7

I. Confirmation of minutes of meeting

[LC Paper No. CB(2) 107/05-06]

The minutes of meeting on 4 October 2005 were confirmed.

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

II. Meeting with the Administration

Admin

Administration's response to outstanding issues [LC Paper Nos. CB(2) 108/05-06(01) and (02)]

- 3. <u>Members</u> noted the Administration's paper providing a summary of offences in the Marriage Ordinance (Cap. 181) and the Bill as requested by Mr Andrew CHENG at the last meeting on 4 October 2005.
- 4. <u>The Administration</u> was requested to provide for members' reference a draft Code of Practice for civil celebrants in due course.

<u>Draft Committee Stage amendments proposed by the Administration</u>
[LC Paper Nos. CB(2) 108/05-06(03), CB(2) 1984/04-05(03) and CB(2) 2655/04-05(04)]

- 5. The Bills Committee completed examination of the English version of the Committee Stage amendments (CSAs) proposed by the Administration and the revised amendments provided in LC Paper No. CB(2) 108/05-06(03).
- 6. Members noted the advice from Senior Assistant Legal Adviser 1 (SALA1) that the effect of the drafting in the draft CSAs which sought to revise the penalty of the offences in sections 29, 30, 33 and 39 of the Principal Ordinance would make the relevant offences only triable summarily in magistrate courts, and not either summarily or upon indictment as in the existing sections. The Chairman expressed concern that the Administration had not drawn the Bills Committee's attention to the implications of the CSAs concerned. The Administration clarified that the intention was to draw the Bills Committee's attention to those implications when the new clause 17A introducing a new section 34A on time limit for prosecution was examined. The Administration further explained that it was appropriate for the offences in those sections with the proposed penalty to be tried in magistrate courts. Some other offences in the Marriage Ordinance were only triable summarily, and the draft CSAs concerned were consistent with the existing policy.
- 7. <u>Members</u> considered the proposed amendment to section 29 under clause 50 in the Bill also had the effect of changing the nature of the offence from knowing that written consent had not been obtained to knowing that no written consent had been produced.
- 8. <u>The Chairman</u> expressed strong dissatisfaction that the Administration had not explicitly explained the implications of the amendments proposed in the Bill and the CSAs mentioned in paragraphs 6 and 7 above to the Bills Committee.
- Admin 9. At the request of the Bills Committee, <u>the Administration</u> undertook to further amend section 29 so as to retain the original intention that a written consent had to be "obtained" and not "produced" for the purpose of this section.
- SALA1 10. The Bills Committee instructed SALA1 to examine the Chinese version of the draft CSAs and inform members of any problems identified.

III. Any Other Business

Way forward

- 11. <u>The Bills Committee</u> agreed that no further meeting would be held unless any member or SALA1 had further comments or queries on the Bill or the draft CSAs. <u>The Bills Committee</u> also agreed that subject to further comments from members and SALA1, the Bills Committee would provide a report for the House Committee meeting on 4 November 2005.
- 12. There being no other business, the meeting ended at 10:30 am.

Council Business Division 2
<u>Legislative Council Secretariat</u>
15 November 2005

Proceedings of the meeting of the Bills Committee on Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill on Tuesday, 25 October 2005 at 8:30 am in Conference Room A of the Legislative Council Building

Time Marker	Speaker(s)	Subject(s)	Action required
1022-1305	Chairman Admin	Summary of offences in the Marriage Ordinance and the Bill provided by the Administration [LC Paper No. CB(2)108/05-06(02)]	
1306-2258	Admin Chairman Miriam LAU Audrey EU	Draft Committee Stage amendment (CSA) to clause 51	
2259-2426	Chairman Admin	Draft CSA to clause 52	
2427-3143	Admin Chairman SALA1 Miriam LAU Audrey EU	New CSA to amend section 33 in the Marriage Ordinance The appropriateness for using the word "pretends" in section 33	
3144-4203	Chairman SALA1 Admin Miriam LAU	SALA1's advice that the effect of the draft CSAs to amend section 33 and certain other sections was that the offences concerned would only be triable summarily, and not either summarily or upon indictment as in the existing sections	

Time Marker	Speaker(s)	Subject(s)	Action required
		The Chairman requested that the Administration should inform the Bills Committee of the policy intent and implications of the proposed amendments	
4204-4447	Admin Chairman SALA1	CSAs to clauses 57 and 58	
4448-4707	LI Kwok-ying Chairman Admin	The new Schedule 5	
4708-4838	Chairman SALA1	The Chairman expressed dissatisfaction that the Administration had not explicitly explained to the Bills Committee the implications of the amendments proposed for sections 29, 30, 33 and 39	
4839-010538	Admin Chairman Miriam LAU	Amendments to the draft CSAs proposed by the Administration to clauses 3 and 4 [LC Paper No. CB(2) 108/05-06(03)]	
010539-013436	Chairman Admin SALA1 Miriam LAU Audrey EU	Amendments to the draft CSA to clause 13 Effect of the amendments to section 27(2) on the circumstances under which a marriage would be null and void under this section	
013437-013825	Admin Chairman	Amendments to the draft CSAs to clauses 16 and 17.	

Time Marker	Speaker(s)	Subject(s)	Action required
		The Chairman expressed dissatisfaction that the Administration had not explicitly explained to the Bills Committee the implications of the amendments proposed for sections 29, 30, 33 and 39	
013826-015703	Admin Chairman Miriam LAU SALA1	Amendments to the draft CSAs to clauses 24, 27 and 35 The original intention in section 29 that a written consent had to be "obtained" and not "produced" for the purpose of this section	Admin to further amend section 29 (paragraph 9 of the minutes refers)
015704-020216	Chairman Admin SALA1 Clerk Miriam LAU	Way forward The Bills Committee would provide a report for the House Committee meeting on 4 November 2005	SALA to examine the Chinese version of the draft CSAs (paragraph 10 of the minutes refers) Admin to provide draft Code of Practice for civil celebrants (paragraph 4 of the minutes refers)

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