

**立法會**  
**Legislative Council**

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**Paper for the House Committee meeting on 17 June 2005**

**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 I**.

**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)

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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)

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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 13<sup>th</sup> 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 (CSAs) to be moved by the Administration to the Bill are in **Appendix II**. The Bills Committee supports the CSAs.

## **DATE OF RESUMPTION OF SECOND READING DEBATE**

57. The Bills Committee recommends support of the resumption of the Second Reading debate on the Bill at the Council meeting on 29 June 2005.

**ADVICE SOUGHT**

58. Members are invited to note the deliberations of the Bills Committee.

Council Business Division 2  
Legislative Council Secretariat  
16 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

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2005

COMMITTEE STAGE

Amendments to be moved by the Secretary for Justice

<u>Clause</u>	<u>Amendment Proposed</u>
Part 2, Division 5	In the heading, by deleting " <b>the Matrimonial Causes Ordinance</b> " and substituting " <b>certain Ordinances</b> ".
New	By adding immediately before the subheading " <b>Matrimonial Causes Ordinance</b> " -  <b>"High Court Ordinance</b>  <b>10A. Rules concerning deposit, etc. of moneys, etc. in High Court</b>  Section 57(1) of the High Court Ordinance (Cap. 4) is amended by repealing "Chief Justice" and substituting "Chief Judge of the High Court".
New	By adding immediately after clause 14 -  <b>"Criminal Procedure Ordinance</b>  <b>14A. Chief Judge to make rules</b>



Section 79D of the Criminal Procedure Ordinance (Cap. 221) is amended by repealing "Chief Justice" and substituting "Chief Judge".

**14B. Application for dismissal of charges contained in a notice of transfer**

Section 79G(8) is amended by repealing "Chief Justice" and substituting "Chief Judge".

**District Court Ordinance**

**14C. Suitors' Funds Rules**

Section 73(1) of the District Court Ordinance (Cap. 336) is amended by repealing "Chief Justice" and substituting "Chief Judge".

**Evidence (Miscellaneous Amendments)  
Ordinance 2003**

**14D. Part added**

Section 17 of the Evidence (Miscellaneous Amendments) Ordinance 2003 (23 of 2003) is

amended, in the new section 79L of the Criminal Procedure Ordinance (Cap. 221), by repealing "Chief Justice" and substituting "Chief Judge".

15

(a) By adding immediately before subclause (1) -

"(1A) Notwithstanding the amendment made by section 10A to section 57(1) of the High Court Ordinance (Cap. 4), any rules made under section 57(1) of that Ordinance which are in force immediately before the date of commencement of section 10A shall on and after that date continue in force as if they were made by the Chief Judge under section 57(1) of that Ordinance as amended by section 10A."

(b) By deleting subclause (2).

(c) By adding -

"(5) Notwithstanding the amendment made by section 14A to section 79D of the Criminal Procedure Ordinance (Cap. 221) -

(a) any rules made under section 79D of that

Ordinance which are in force immediately before the date of commencement of section 14A shall on and after that date continue in force as if they were made by the Chief Judge under section 79D of that Ordinance as amended by section 14A;

- (b) any directions given under section 79D of that Ordinance which are in force immediately before the date of commencement of section 14A shall on and after that date continue in force as if they were given by the Chief Judge under section 79D of that Ordinance as amended by section 14A.

(6) Notwithstanding the amendment made by section 14B to section 79G(8) of

the Criminal Procedure Ordinance (Cap. 221) -

- (a) any rules made under section 79G(8) of that Ordinance which are in force immediately before the date of commencement of section 14B shall on and after that date continue in force as if they were made by the Chief Judge under section 79G(8) of that Ordinance as amended by section 14B;
- (b) any directions given under section 79G(8) of that Ordinance which are in force immediately before the date of commencement of section 14B shall on and after that date continue in force as if they were given by the Chief Judge under section

79G(8) of that Ordinance  
as amended by section 14B.

(7) Notwithstanding the amendment made by section 14C to section 73(1) of the District Court Ordinance (Cap. 336), any rules made under section 73(1) of that Ordinance which are in force immediately before the date of commencement of section 14C shall on and after that date continue in force as if they were made by the Chief Judge under section 73(1) of that Ordinance as amended by section 14C."

Part 3                   By deleting Division 6.

New                      By adding immediately before the subheading  
"**Prevention of Bribery Ordinance**" -

**"Dangerous Drugs Ordinance**

**34A. Surrender of travel document**

Section 53A of the Dangerous Drugs Ordinance (Cap. 134) is amended -

(a) by adding -

"(4A) Subject to subsection (8), a person to whom a notice under subsection (1) is addressed shall not leave Hong Kong, whether or not the notice has been served on him under subsection (3), before the expiry of a period of 3 months from the date of the notice unless -

(a) an application made under section 53B(1) for the return of a travel document is granted; or

(b) an application made under

section  
53C(1) for  
permission  
to leave  
Hong Kong  
is  
granted.";

(b) in subsection (5), by repealing  
"thereupon";

(c) by adding -

"(7A) Subject to  
subsection (8), a travel  
document surrendered to  
the Commissioner of Police  
or the Commissioner of  
Customs and Excise in  
compliance with a notice  
under subsection (1) may  
be detained for a period  
of 3 months from the date  
of the notice unless an  
application made under  
section 53B(1) for the  
return of the travel

document is granted.";

(d) in subsection (8) -

(i) by repealing

everything before

"for not more than"

and substituting -

"(8) The

period of 3

months referred

to in

subsections (4A)

and (7A) may be

extended";

(ii) by repealing "further

detention" and

substituting

"extension";

(e) in subsection (10), by adding

"and sections 53B and 53C"

after "In this section".

#### **34B. Section added**

The following is added -

**"53C. Application for permission**



**to leave Hong Kong**

(1) Without prejudice to section 53B, a person on whom a notice under section 53A(1) is served may at any time make written application to the Commissioner of Police or the Commissioner of Customs and Excise, as the case may be, for permission to leave Hong Kong and every such application shall contain a statement of the grounds on which it is made.

(2) Before determining an application under subsection (1), the Commissioner of Police or the Commissioner of Customs and Excise may require that any matter of fact relied on in the application shall be substantiated by statutory declaration.

(3) Any person aggrieved by the refusal of an application under subsection (1) may, within 14 days of being informed of such refusal, appeal to a magistrate against that refusal and the magistrate may, upon considering the

grounds of the application and any evidence which may be adduced in relation thereto by or on behalf of either party, order that the person be permitted to leave Hong Kong.

(4) The decision of a magistrate in relation to an appeal under this section shall be final."."

35

By deleting paragraphs (a) and (b) and substituting -

"(a) by adding -

"(3A) Subject to subsection (6), a person to whom a notice under subsection (1) is addressed shall not leave Hong Kong, whether or not the notice has been served on him under subsection (2), before the expiry of a period of 6 months from the date of the notice unless -

(a) an application made under section 17B(1) for the return of a travel document is

granted; or

(b) an application made under section 17BA(1) for permission to leave Hong Kong is granted.";

(b) in subsection (4), by repealing "thereupon be arrested and taken before a magistrate" and substituting "be arrested and taken before a magistrate by a police officer or by a person appointed in that behalf by the Commissioner";

(c) by adding -

"(5A) Subject to subsection (6), a travel document surrendered to the Commissioner in compliance with a notice under subsection (1) may be detained for a period of 6 months from the date of the notice unless an application made under section 17B(1) for the return of the travel document is granted.";

(d) in subsection (6) -

(i) by repealing everything before

the proviso and substituting -

"(6) The period of 6 months referred to in subsections (3A) and (5A) may be extended for a further period of 3 months if a magistrate, on application by the Commissioner, is satisfied that the investigation could not reasonably have been completed before the date of such application and authorizes such extension:";

(ii) in the proviso, by repealing "who surrendered the document" and substituting "to whom the relevant notice is addressed".

36

By deleting paragraphs (b) and (c) and substituting -

"(b) in subsection (6), by repealing "subject

to such conditions as to the further  
surrender of the travel document and the  
appearance of the applicant at any time  
and place in Hong Kong as may be  
specified." and substituting -

"subject to the conditions that -

(a) the applicant shall  
further surrender his  
travel document to  
the Commissioner at  
such time as may be  
specified; and

(b) the applicant shall  
appear at such time  
and place in Hong  
Kong as may be  
specified and at such  
other time and place  
in Hong Kong  
thereafter as may be  
further specified.";

(c) by repealing subsection (7) and  
substituting -

"(7) Where a travel document is

returned to the applicant under this section subject to a condition imposed under subsection (5)(a) or (6)(a), then after the time specified under that subsection, the provisions of section 17A(3A) shall continue to apply in respect of the applicant and the provisions of section 17A(5A) shall continue to apply in respect of the travel document surrendered by the applicant pursuant to the condition as if no return had been made to the applicant under this section."."

New

By adding immediately after clause 36 -

**"36A. Section added**

The following is added -

**"17BA. Permission to leave  
Hong Kong**

(1) Without prejudice to section 17B, a person on whom a notice under section 17A(1) is served may at any time make application in writing to the Commissioner or to a magistrate or both

for permission to leave Hong Kong, and every such application shall contain a statement of the grounds on which it is made.

(2) A magistrate shall not consider an application made under subsection (1) unless he is satisfied that reasonable notice in writing of it has been given to the Commissioner.

(3) The Commissioner or a magistrate shall only grant an application made under subsection (1) where the Commissioner or the magistrate, as the case may be, is satisfied that having regard to all the circumstances, including the interests of the investigation referred to in section 17A(1), a refusal to grant the application would cause unreasonable hardship to the applicant.

(4) Before an application is granted under this section -

(a) the applicant may be  
required to -

(i) deposit such reasonable sum of money with such person as may be specified;

(ii) enter into such recognizance with such sureties, if any, as may be specified; or

(iii) deposit such a sum of money and enter into such a recognizance as may be specified;

(b) any such applicant or surety may be required to deposit such property or document of title thereto with such person as may be specified for retention by



that person until such time as any recognizance entered into under this subsection is no longer required or is forfeited.

(5) A recognizance referred to in subsection (4) shall be subject to a condition that the applicant shall appear at such time and place in Hong Kong as may be specified and at such other time and place in Hong Kong thereafter as may be further specified.

(6) An application under this section may be granted either without condition or subject to a condition that the applicant shall appear at such time and place in Hong Kong as may be specified and at such other time and place in Hong Kong thereafter as may be further specified.

(7) Where a person is permitted to leave Hong Kong under this section subject to a condition imposed under subsection (5) or (6), then after the

time specified under that subsection or (if applicable) after the last of such times, the provisions of section 17A(3A) shall continue to apply in respect of the person as if the person had not been permitted to leave Hong Kong under this section.

(8) Proceedings before a magistrate under this section -

- (a) shall be conducted in chambers; and
- (b) shall be deemed to be proceedings which a magistrate has power to determine in a summary way within the meaning of sections 105 and 113(3) of the Magistrates Ordinance (Cap. 227) and, accordingly, Part VII of that Ordinance (which relates to appeals) shall apply, with the necessary modifications, to appeals

against an order of a  
magistrate under this  
section.

(9) Anything to be specified in  
respect of an applicant under this  
section shall be specified by notice in  
writing served personally on the  
applicant."

**36B. Further provisions relating to  
security, appearance, etc.**

Section 17C is amended by adding -

"(1A) Where a person granted an  
application under section 17BA fails to  
comply with the requirement of any  
condition imposed under that section, any  
deposit made or recognizance entered into  
under that section may be forfeited by a  
magistrate on application by the  
Commissioner or under section 65 of the  
Magistrates Ordinance (Cap. 227).".

37

In the proposed section 9B, by adding "and the  
Court of Appeal or the Court of First Instance, as  
the case may be, is satisfied that the application

is without merit," after "the Hong Kong Court of Final Appeal Ordinance (Cap. 484),".

38 In the proposed section 13B, by adding "and the Court of Appeal or the Court of First Instance, as the case may be, is satisfied that the application is without merit," after "the Hong Kong Court of Final Appeal Ordinance (Cap. 484),".

66 (a) In paragraph (b), by deleting the full stop and substituting a semicolon.

(b) By adding -

"(c) in paragraph (c), by adding "或命令" after "決定".".

198 (a) By deleting the subheading "**Firearms and Ammunition Ordinance**" before the clause.

(b) By deleting the clause.

《2005 年成文法(雜項規定)條例草案》

**委員會審議階段**

由律政司司長動議的修正案

條次

建議修正案

第 2 部 在標題中，刪去“《婚姻訴訟條例》”而代以“若干條  
第 5 分部 例”。

新條文 在緊接副標題“《婚姻訴訟條例》”之前加入 一

**“《高等法院條例》**

**10A. 關於將款項等在高等法院存放  
或作其他方式處理的規則**

《高等法院條例》(第 4 章)第 57(1)條現予修訂，廢除“終審”而代以“高等”。

新條文 在緊接第 14 條之後加入 一

**“《刑事訴訟程序條例》**

**14A. 高等法院首席法官訂立規則**

《刑事訴訟程序條例》(第 221 章)第 79D 條現予修訂，廢除“終審”而代以“高等”。

#### **14B. 申請將移交通知所載控罪撤銷**

第 79G(8)條現予修訂，廢除“終審”而代以“高等”。

### **《區域法院條例》**

#### **14C. 訴訟人儲存金規則**

《區域法院條例》(第 336 章)第 73(1)條現予修訂，廢除“終審”而代以“高等”。

### **《2003 年證據(雜項修訂)條例》**

#### **14D. 加入第 III B 部**

《2003 年證據(雜項修訂)條例》(2003 年第 23 號)第 17 條現予修訂，在《刑事訴訟程序條例》(第 221 章)新的第 79L 條中，廢除“終審”而代以“高等”。”。

15 (a) 在緊接第(1)款之前加入 —

“(1A) 即使第 10A 條對《高等法院條例》(第 4 章)第 57(1)條作出修訂，任何根據該條例第 57(1)條訂立並在緊接第 10A 條生效日期之前有效的規則，在該日或之後繼續有效，猶如該等規則是由高等法院首席法官根據經第 10A 條修訂的該條例的第 57(1)條訂立的一樣。”。

(b) 刪去第(2)款。

(c) 加入 —

“(5) 即使第 14A 條對《刑事訴訟程序條例》(第 221 章)第 79D 條作出修訂 —

(a) 任何根據該條例第 79D 條訂立並在緊接第 14A 條生效日期之前有效的規則，在該日或之後繼續有效，猶如該等規則是由高等法院首席法官根據經第 14A 條修訂的該條例的第 79D 條訂立的一樣；

(b) 任何根據該條例第 79D 條作出並在緊接第 14A 條生效日期之前有效的指示，在該日或之後繼續有效，猶如該等指示是由高等法院首席法官根據經第 14A 條修訂的該條例的第 79D 條作出的一樣。

(6) 即使第 14B 條對《刑事訴訟程序條例》(第 221 章)第 79G(8)條作出修訂 —

(a) 任何根據該條例第 79G(8)條訂立並在緊接第 14B 條生效日期之前有效的規則，在該日或之後繼續有效，猶如該等規則是由高等法院首席法官根據經第 14B 條修訂的該條例的第 79G(8)條訂立的一樣；

- (b) 任何根據該條例第 79G(8)條作出並在緊接第 14B 條生效日期之前有效的指示，在該日或之後繼續有效，猶如該等指示是由高等法院首席法官根據經第 14B 條修訂的該條例的第 79G(8)條作出的一樣。

(7) 即使第 14C 條對《區域法院條例》(第 336 章)第 73(1)條作出修訂，任何根據該條例第 73(1)條訂立並在緊接第 14C 條生效日期之前有效的規則，在該日或之後繼續有效，猶如該等規則是由高等法院首席法官根據經第 14C 條修訂的該條例的第 73(1)條訂立的一樣。”。

第 3 部 刪去第 6 分部。

新條文 在緊接副標題“《防止賄賂條例》”之前加入 —  
“《危險藥物條例》

### 34A. 交出旅行證件

《危險藥物條例》(第 134 章)第 53A 條現予修訂 —

- (a) 加入 —

“(4A) 在不抵觸第(8)款的條文下，除非 —

- (a) 根據第 53B(1)條提出的要求



發還旅行證件的申請獲得批准；或

- (b) 根據第 53C(1) 條提出的要求准許離開香港的申請獲得批准，

否則根據第(1)款發出的通知書的收件人(不論該通知書是否已根據第(3)款送達該人)不得在自該通知書日期起計的 3 個月期間屆滿前離開香港。”；

- (b) 在第(5)款中，廢除在“被逮捕”之前的“即”；

- (c) 加入 —

“(7A) 在不抵觸第(8)款的條文下，除非根據第 53B(1)條提出的要求發還旅行證件的申請獲得批准，否則遵照根據第(1)款發出的通知書向警務處處長或香港海關關長交出的旅行證件，可在自該通知書日

期起計的 3 個月期間內  
予以扣留。”；

(d) 在第(8)款中 —

(i) 廢除“根據本條向警  
務處處長或香港海關  
關長交出的旅行證  
件，由交出的日期起  
計，可扣留 3 個月；  
如裁判官接獲”而代  
以“第(4A)及(7A)款  
所提述的 3 個月期間  
在以下情況下可延展  
不超過兩次，每次為  
期 3 個月的額外期  
間：裁判官應”；

(ii) 廢除在“的申請”之  
後的所有字句而代以  
“而信納調查按理不  
能在申請日期前完  
成，並授權該項延  
展。”；

(e) 在第(10)款中，在“本條”之  
後加入“及第 53B 及 53C  
條”。

### 34B. 加入條文

現加入 —

### “53C. 申請離開香港的准許

(1) 在不損害第 53B 條的原則下，獲送達根據第 53A(1)條發出的通知書的人可隨時以書面向警務處處長或香港海關關長(視屬何情況而定)申請離開香港的准許，而每份該等申請均須載有對提出申請的理由的陳述。

(2) 警務處處長或香港海關關長對根據第(1)款提出的申請作出決定前，可要求申請所依據的任何事實須由法定聲明予以證明。

(3) 任何人如因根據第(1)款提出的申請遭拒絕而感到受屈，可在獲悉遭拒絕後 14 天內就該項拒絕向裁判官上訴；裁判官在考慮申請的理由及由任何一方或其代表所提出的有關證據後，可下令准許該人離開香港。

(4) 裁判官就根據本條提出的上訴所作的裁決屬最終決定。”。

35 刪去(a)及(b)段而代以 —

“(a) 加入 —

“(3A) 在不抵觸第(6)款的條文下，除非 —

(a) 根據第 17B(1)條提出的要求發還旅行證件的申請獲得批准；或

- (b) 根據第 17BA(1)條提出的要求准許離開香港的申請獲得批准，

否則根據第(1)款發出的通知書的收件人(不論該通知書是否已根據第(2)款送達該人)不得在自該通知書日期起計的 6 個月期間屆滿前離開香港。”；

- (b) 在第(4)款中，廢除“因此被”而代以“被警務人員或獲專員為此而委任的人”；
- (c) 加入 —

“(5A) 在不抵觸第(6)款的條文下，除非根據第 17B(1)條提出的要求發還旅行證件的申請獲得批准，否則遵照根據第(1)款發出的通知書向專員交出的旅行證件，可在自該通知書日期起計的 6 個月期間內予以扣留。”；

- (d) 在第(6)款中 —
  - (i) 廢除在但書之前的所有字句而代以 —

“(6) 第(3A)及(5A)款所提述的 6 個月期間在以下情況下可延展一段為期 3 個月的額外期間：裁判官應專員的申請而信納調查按理不能在該項申請日期前完成，並授權該項延展：”；

- (ii) 在但書中，廢除“向交出旅行證件的人給予合理”而代以“給予有關通知書的收件人合理的”。”。

36

刪去(b)及(c)段而代以 —

- “(b) 在第(6)款中，廢除“亦可在指明的條件下獲得批准，條件為申請人須再次交出旅行證件及須按指明的時間地點在香港報到。”而代以 —

“亦可在以下條件的規限下獲得批准 —

- (a) 申請人須在指明的時間再次向專員交出申請人的旅行證件；及
- (b) 申請人須在指明的時間及地點在香港報到，其後並須在進一步指明的其他時間及地點在香港報到。”；

- (c) 廢除第(7)款而代以 —

“(7) 凡旅行證件根據本條在根據第(5)(a)或(6)(a)款施加的條件規限下發還予申請人，則在根據該款指明的時間之後，第17A(3A)條的條文即繼續就該申請人而適用，而第17A(5A)條的條文即繼續就該申請人依據有關條件交出的旅行證件而適用，猶如該申請人不曾根據本條獲發還該旅行證件一樣。”。

新條文

在緊接第 36 條之後加入 —

**“36A. 加入條文**

現加入 —

**“17BA. 離開香港的准許**

(1) 在不損害第 17B 條的原則下，獲送達根據第 17A(1)條發出的通知書的人可隨時以書面向專員或裁判官或兼向兩者申請離開香港的准許，每份該等申請均須載有對提出申請的理由的陳述。

(2) 除非裁判官信納關於根據第(1)款提出的申請的合理書面通知已給予專員，否則裁判官無須考慮該項申請。

(3) 只有在專員或裁判官經顧及整體情況(包括顧及第 17A(1)條所提述的調查的利益)後，信納拒絕批准根據第(1)款提出的申請會對申請人造成不合理困苦的情況下，專員或裁判官(視屬何情況而定)方可批准該項申請。

(4) 在根據本條批准申請前 —

(a) 申請人可被要求 —

(i) 將一筆合理款額的款項寄存於指明的人處；

(ii) 聯同指明的擔保人(如有的話)作出指明的擔保；或

(iii) 寄存該筆指明的款項並作出該項指明的擔保；

(b) 任何申請人或擔保人可被要求將指明的財產或財產所有權文件寄存於指明的人處以作保留，直至根據本款作出的擔保不再需要或擔保的承諾須予履行為止。

(5) 第(4)款所指的擔保須受以下條件規限：申請人須在指明的時間地點在香港報到，而其後須在進一步指明的其他時間地點在香港報到。

(6) 根據本條提出的申請，可在無條件下獲得批准，亦可在以下條件規限下獲得批准：申請人須在指明的時間地點在香港報到，而其後須在進一步指明的其他時間地點在香港報到。

(7) 凡某人在根據第(5)或(6)款施加的條件規限下根據本條獲批准離開香港，則在根據該款指明的時間之後，或(如適用的話)在該等時間中的最後的一個之後，第17A(3A)條的條文即繼續就該人而適用，猶如該人不曾根據本條獲批准離開香港一樣。

(8) 根據本條在裁判官席前進行的法律程序 —

(a) 須在內庭進行；及

(b) 須當作為《裁判官條例》(第 227 章)第 105 及 113(3)條所指裁判官有權循簡易程序裁決的法律程序，而據此該條例第 VII 部(該部與上訴有關)經必要的變通後適用於針對裁判官根據本條所作命令而提出的上訴。

(9) 根據本條須就申請人指明的任何事項，須藉面交送達申請人的書面通知而指明。”。

### **36B. 有關擔保、報到等事項的進一步條文**

第 17C 條現予修訂，加入 —

“(1A) 凡任何根據第 17BA 條提出申請並獲批准的人沒有遵從根據該條施加的任何條件的規定，裁判官可應專員的申請或根據《裁判官條例》(第 227 章)第 65 條，沒收根據第 17BA 條寄存的款項、財產或財產所有權文件或作出的擔保或宣告擔保的承諾須予履行。”。

37

在建議的第 9B 條中，在“駁回，”之後加入“且上訴法庭或原訟法庭(視屬何情況而定)信納該申請是沒有好的成功機會的，”。



- 38 在建議的第 13B 條中，在“駁回，”之後加入“且上訴法庭或原訟法庭(視屬何情況而定)信納該申請是沒有好的成功機會的，”。
- 66 (a) 在(b)段中，刪去句號而代以分號。
- (b) 加入 —
- “(c) 在(c)段中，在“決定”之後加入“或命令”；”。
- 198 (a) 刪去在該條之前的副標題“《火器及彈藥條例》”。
- (b) 刪去該條。