

立法會
Legislative Council

LC Paper No. CB(2)2703/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/BC/9/10

Bills Committee on Immigration (Amendment) Bill 2011

Minutes of meeting
held on Tuesday, 22 May 2012, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex

Members present : Hon LAU Kong-wah, JP (Chairman)
Dr Hon Margaret NG
Hon James TO Kun-sun
Dr Hon Philip WONG Yu-hong, GBS
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Cyd HO Sau-lan
Hon WONG Kwok-kin, BBS
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun, JP

Members absent : Hon WONG Yung-kan, SBS, JP
Hon CHAN Hak-kan

Public Officers attending : Item I
Mr NGAI Wing-chit
Deputy Secretary for Security 3

Mr CHOW Wing-hang
Principal Assistant Secretary for Security D

Mr LEUNG Kwok-hung, IMSM
Assistant Director (Enforcement and Torture Claim Assessment)
Immigration Department

Mr Henry CHAN
Government Counsel
Department of Justice

Mr Billy WOO
Assistant Secretary for Security D1

Mr FUNG Ming-keung
Principal Immigration Officer (Torture Claim Assessment)
Immigration Department

Clerk in attendance : Mrs Sharon TONG
Principal Council Secretary (2)

Staff in attendance : Ms Connie FUNG
Senior Assistant Legal Adviser 1

Ms Rita LAI
Senior Council Secretary (2) 1

Ms Michelle LEE
Legislative Assistant (2) 7

I. Meeting with the Administration

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

2. The Administration was requested -

- (a) to consult the views of The Law Society of Hong Kong ("The Law Society") and the Hong Kong Bar Association ("the BAR") on the 28-day timeframe for torture claimants to return their completed torture claim forms as required under the proposed section 37Y of the Immigration Ordinance (Cap. 115);
- (b) to consider specifying in the Bill that torture claimants would be allowed to submit medical reports of examination issued by private medical practitioners at their own cost;

- (c) to provide information on prosecution against torture claimants for overstaying, including the number of cases on prosecution, conviction and duration of the imprisonment;
- (d) to consider specifying in the Bill the behaviour which would disturb or otherwise interfere with the proceedings of the Torture Claims Appeal Board; and
- (e) to consult The Law Society and the BAR on the drafting of the deeming provision under the proposed section 6 of Schedule 4 to the Bill.

II. Any other business

3. Members noted that the next meeting had been scheduled for 28 May 2012 from 12:30 pm to 1:30 pm.
4. The meeting ended at 4:50 pm.

Council Business Division 2
Legislative Council Secretariat
24 August 2012

**Proceedings of meeting of the
Bills Committee on Immigration (Amendment) Bill 2011
held on Tuesday, 22 May 2012, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action Required
000301 - 000452	Chairman	Opening remarks	
000453 - 000907	Chairman Admin	<u>The Administration's proposal on Committee Stage amendments ("CSAs") (LC Paper No. CB(2)1859/11-12(02))</u> Timeframe for returning completed torture claim form - within 28 days	
000908 - 001403	Chairman Dr Margaret NG Admin	Insufficient time for torture claimants to return completed torture claim forms within 28 days; Rationale for limiting the timeframe to 28 days; and Dr Margaret NG's intention to propose CSAs to extend the proposed timeframe to allow sufficient time for claimants to return their torture claim forms	
001404 - 001841	Chairman Dr Philip WONG Admin	Improvements made to the internal procedures for handling personal data requests; Reasons for obtaining consent of torture claimants; and Lead time required for providing personal data to torture claimants	
001842 - 002101	Chairman Ms Emily LAU Admin	Whether The Law Society of Hong Kong ("The Law Society") and the Hong Kong Bar Association ("the BAR") had been further consulted on the 28-day requirement for returning completed torture claim forms	The Administration to consult the views of The Law Society and the BAR on the 28-day timeframe for torture claimants to return their completed torture claim forms as required under the proposed section 37Y of the Immigration Ordinance (Cap. 115)

Time marker	Speaker(s)	Subject(s)	Action Required
002102 - 002241	Chairman Dr Margaret NG	Whether consideration would be given to extending the 28-day timeframe to 40 days for returning completed torture claim forms	
002242 - 002728	Chairman Dr Philip WONG Admin	Suggestion of using the date when torture claimants received their requested personal data from the Immigration Department as the starting time for calculating the timeframe for returning completed torture claim forms	
002729 - 003030	Chairman Dr Margaret NG Admin Ms Emily LAU	Whether it was necessary for torture claimants to apply for extension of time to return the completed torture claim forms if the timeframe was set at 40 days	
003031 - 003053	Chairman Admin	<u>Continuation of briefing on the Administration's proposal on CSAs</u> Arrangement for interview	
003054 - 003317	Chairman Admin Dr Margaret NG	Legal representatives attending interview; and Clarification on right of torture claimants to arrange their own legal representatives	
003318 - 003404	Chairman Admin	Considerations for substantiating claims	
003405 - 003521	Chairman Admin	Reopening of claims after withdrawal	
003522 - 003648	Chairman Admin	Revocation decision	
003649 - 003922	Chairman Admin	Other issues, including the number of members of the Torture Claims Appeal Board ("Appeal Board"), handling of claimants suffering from trauma, and Director of Immigration to grant claimants with substantiated claims permission to work only in "exceptional" circumstances	

Time marker	Speaker(s)	Subject(s)	Action Required
003933 - 005104	Chairman Dr Margaret NG Admin	Clarification on whether torture claimants suffering from trauma would be allowed to arrange their own medical practitioners with relevant expertise to conduct medical examination for them	The Administration to consider specifying in the Bill that torture claimants would be allowed to submit medical reports of examination issued by private medical practitioners at their own cost
005105 - 010039	Chairman Dr Margaret NG Admin	<p><u>Administration's response to deputations' views (Appendix 1 to LC Paper No. CB(2)1972/11-12(01))</u></p> <p>Proposed section 37W (Restrictions on persons claiming non-refoulement protection in Hong Kong);</p> <p>Concern that all torture claimants would be liable to prosecution because of overstaying and the detention policy involved;</p> <p>Whether consideration would be given to allowing torture claimants to make torture claims before the expiry of the permission for them to stay in Hong Kong; and</p> <p>Cases of prosecution against torture claimants</p>	The Administration to provide information on prosecution against torture claimants for overstaying, including the number of cases on prosecution, conviction and duration of the imprisonment
010040 - 010225	Chairman Admin	Proposed section 37ZD (Credibility of claimant)	
010226 - 010336	Chairman Admin	Proposed section 37ZH (Order in which claims are processed)	
010337 - 010346	Chairman Admin	Proposed section 37ZI (Decision on torture claim)	
010347 - 010352	Chairman Admin	Proposed section 37ZL (Revocation of decision to accept torture claim etc.)	
010353 - 010554	Chairman Admin	Proposed sections 37ZO to 37ZS and Schedule 1A (Torture Claim Appeal Board)	

Time marker	Speaker(s)	Subject(s)	Action Required
010555 - 010603	Chairman Admin	Proposed section 37ZV (Claimant of substantiated claim may apply for permission to take employment etc.)	
010604 - 010620	Chairman Admin	Proposed section 37ZW (Claimant not ordinarily resident in Hong Kong)	
010621 - 010644	Chairman Admin	Proposed section 42 amended (False statement, forgery of documents and use and possession of false documents)	
010645 - 010755	Chairman Admin	Proposed section 43A added (Disturbing proceedings of Torture Claims Appeal Board)	
010756 - 010900	Chairman Admin	Immigration Regulations - New Form 8 (Recognizance) to substitute the existing form	
010901 - 011724	Chairman Dr Margaret NG Admin	Clarification on behaviour to be considered as disturbing proceedings of the Appeal Board under the proposed section 43A	The Administration to consider specifying in the Bill the behaviour which would disturb or otherwise interfere with the proceedings of the Appeal Board
011725 - 011952	Chairman Admin	<u>Other supplementary information (LC Paper No. CB(2) 1972/11-12(01))</u> Arrangement of qualified interpreters for all claimants at interviews; Publicly-funded legal assistance for appeal against revocation decision; Remuneration for Appeal Board members; Press report on a torture claimant subsequently being tortured after removal from Hong Kong; Proposed section 43A; and Transitional provisions	

Time marker	Speaker(s)	Subject(s)	Action Required
011953 - 013321	Chairman Admin	Briefing by the Administration on its response to the joint submission of The Law Society and the BAR dated 21 May 2012 (LC Paper No. CB(2)2093/11-12(01))	
013322 - 014655	Chairman Dr Margaret NG Admin	Concern of the two legal professional bodies that under the proposed section 6 of Schedule 4 decisions on torture claims made under the administrative scheme would be legalized by virtue of the transitional and savings provisions	The Administration to consult The Law Society and the BAR on the drafting of the deeming provision under the proposed section 6 of Schedule 4 to the Bill
014656 - 015515	Chairman Admin	<p><u>Proposed Committee Stage amendments (Annex I to LC Paper No. CB(2)1986/11-12(01))</u></p> <p>Briefing by the Administration on the proposed CSAs to the following proposed sections -</p> <p>section 17I(2)(c); section 37U(1); section 37V; section 37ZB; section 37ZE; section 37ZG; section 37ZI; section 37ZL; section 37ZO; section 37ZP; section 37ZT; and section 37ZW; and</p> <p>Briefing by the Administration on the proposed CSAs to add new section 37ZLA; section 37ZLB; and section 37ZX to the Immigration Ordinance</p>	
015516 - 015718	Chairman Dr Margaret NG Admin	Clarification on the position where the proposed Schedule 4 would be inserted	
015719 - 021119	Chairman Admin	<p>Continuation of briefing on the proposed CSAs to the following -</p> <p>Schedule 1A; Schedule 4; Form No. 8; and Table of Transitional Provisions</p>	
021120 - 021717	Chairman SALA1 Admin Ms Emily LAU	Referring to items 7 and 8 of the Table of Transitional Provisions in the proposed Schedule 4, whether it would be unfair if a rejected claim was made without a screening interview being arranged under the administrative scheme	

Time marker	Speaker(s)	Subject(s)	Action Required
021718 - 022125	Chairman Ms Emily LAU Admin	Date of next meeting and closing remarks	

Council Business Division 2
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