

立法會
Legislative Council

LC Paper No. CB(2)2635/11-12
(These minutes have been seen by
the Administration)

Ref : CB2/BC/6/11

**Bills Committee on
Statute Law (Miscellaneous Provisions) Bill 2012**

**Minutes of the first meeting
held on Tuesday, 22 May 2012, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Dr Hon Margaret NG (Chairman)
Hon James TO Kun-sun
Hon LAU Kong-wah, JP
Hon Tanya CHAN

Public Officers attending : Item II

Ms Adeline WAN
Senior Assistant Solicitor General
Department of Justice

Ms Alice CHOY
Senior Government Counsel
Department of Justice

Miss Emma WONG
Senior Government Counsel
Department of Justice

Miss Ida CHAN
Senior Government Counsel
Department of Justice

Action

Mrs Millie NG
Principal Assistant Secretary for Security

Mr Steven Alexander CARRUTHERS
Chief Superintendent (Crime Support) (Crime
Wing)
Hong Kong Police Force

Ms AU YEUNG Sze-wan
Senior Inspector of Police (Child Protection Policy
Unit 2) (Crime Wing)
Hong Kong Police Force

Clerk in attendance : Ms Amy YU
Chief Council Secretary (2)6

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Judy TING
Council Secretary (2)6

Miss Meisy KWOK
Legislative Assistant (2)6

I. Election of Chairman

Dr Margaret NG was elected Chairman of the Bills Committee.

II. Meeting with the Administration

[LC Paper Nos. CB(3)663/11-12, LS57/11-12,
CB(2)2077/11-12(01), CB(2)2078/11-12(02) and LP 3/00/12C]

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

3. The Bills Committee completed the clause-by-clause scrutiny of the Statute Law (Miscellaneous Provisions) Bill 2012 ("the Bill").

Action

Admin 4. The Administration was requested to -

Part 4 – amendment to Crimes Ordinance (Cap. 200)

- (a) provide information on the concerns raised by individual organizations (including the Hong Kong Committee on Children's Rights and Against Child Abuse) in connection with the proposed abolition of the common law presumption that a boy under 14 was incapable of sexual intercourse, and the Administration's response to such concerns (clause 12);

Part 7 – amendments relating to editorial powers

- (b) provide examples of editorial amendments to explain the proposed additional editorial powers in relation to inserting after a reference to the title of an ordinance the chapter number given to that ordinance (clauses 18(2) and 21(3)) and inserting after a definition its English or Chinese equivalent (clauses 18(3) and 21(4));

Part 8 – amendments relating to legal practice entities

- (c) provide information to explain the proposed amendment to item 1 of Schedule 1 to the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997) in respect of the long title of the Legal Practitioners Ordinance (Cap. 159) (clause 33(1));

Part 12 – miscellaneous amendments and repeals

- (d) consider the appropriateness of the Chinese rendition (" 看來是 ") of "purported" in the phrase "any purported disposition" in section 16(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) as amended by clause 63(2); and
- (e) provide explanation on the draft Committee Stage amendments concerning the proposed repeal of the Hong Kong Airport (Control of Obstructions) (Consolidation) Order (Cap. 301A) and the Lifts and Escalators (Safety) (Fees) Regulations (Cap. 327A).

Action

5. The Chairman opined that the existing format of presenting amendments to ordinance(s) in an amending bill did not facilitate readers in understanding the relevant amendments. She pointed out that it was difficult for Members to understand the contents of the amendments in the Bill without referring to the marked-up copy of the Bill prepared by the Legal Service Division of the Secretariat. Furthermore, she considered it more logical to place the operative provision of an amending bill (i.e. clause 2 of the Bill on "Enactments amended") at the end, rather than at the beginning part, of a bill. She requested the Administration to relay her views to the Law Draftsman.

Admin

III. Any other business

Date of next meeting

6. Members agreed that the next meeting would be held on Tuesday, 29 May 2012, at 8:30 am.

7. There being no other business, the meeting ended at 10:35 am.

Council Business Division 2
Legislative Council Secretariat
27 July 2012

**Proceedings of the first meeting of the
Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2012
on Tuesday, 22 May 2012, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000300-000319	Dr Margaret NG Mr LAU Kong-wah Miss Tanya CHAN	Election of Chairman	
000320-000535	Chairman Clerk Administration	Legislative timetable	
000536-000740	Chairman Administration	Discussions on the approach to be adopted by the Bills Committee to scrutinize the Bill.	
Clause-by-clause examination of the Bill			
000741-001845	Chairman Mr James TO Miss Tanya CHAN Administration	<p>Part 4 - amendment to Crimes Ordinance (Cap. 200) (clause 12)</p> <p>Discussions on the proposed abolition of the irrefutable common law presumption that a boy under 14 was incapable of sexual intercourse ("common law presumption").</p> <p>The Administration advised that stakeholders including the two legal professional bodies generally supported the proposal in the Law Reform Commission report for abolishing the common law presumption, and organizations such as End Child Sexual Abuse Foundation had urged for its early implementation. The concerns expressed by the Hong Kong Committee on Children's Rights and Against Child Abuse related not to the proposed abolition of the common law presumption per se, but to the issue of minimum age of criminal responsibility.</p> <p>Members' request for the Administration to provide further information on the concerns raised by individual organizations in connection with the proposed abolition of the common law presumption, and the response of the Administration to such concerns.</p>	Admin (para 4(a) of minutes)
001846-003129	Chairman Administration Assistant Legal Adviser 1 ("ALA1")	<p>Part 8 – amendments relating to legal practice entities</p> <p>Division 1 – Legal Practitioners Ordinance (Cap. 159) ("LPO") (clauses 22 to 30)</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Members noted that –</p> <ul style="list-style-type: none"> (a) these clauses were technical or consequential amendments to enable the relevant provisions of the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997) ("the 1997 Ordinance") and the Solicitor Corporation Rules to be brought into operation; (b) the majority of these technical or consequential amendments were to add references to "solicitor corporation" in the relevant provisions or replace references to "law firm" or "solicitor or foreign lawyer" by "legal practice entity"; and (c) "legal practice entity" was defined under section 2(1) of LPO as amended by the 1997 Ordinance (which had not come into operation) to cover a solicitor or his firm, a foreign lawyer or his firm, a solicitor corporation and a foreign lawyer corporation. 	
003130-005331	Chairman Administration Mr James TO ALA1	<p>Division 2 - Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997) (clauses 31 to 33)</p> <p>Discussions on clause 31 which amended the 1997 Ordinance to provide that only a solicitor who was a member or employee of a solicitor corporation could be appointed as a proxy for the purpose of attending and voting at any meeting of the solicitor corporation, to achieve the policy intent that control of solicitor corporations must remain with solicitors.</p> <p>In response to Mr James TO's enquiry, the Administration confirmed that the Companies Bill ("CB") currently under scrutiny by the Legislative Council contained a clause similar to section 114C(1) of the existing Companies Ordinance (Cap. 32), and there were provisions in CB to deal with consequential amendments required to be made to other legislation following the enactment of CB.</p> <p>Members' request for the Administration to provide information to explain the proposed amendment to item 1 of Schedule 1 to the 1997 Ordinance in respect of the long title of the LPO.</p>	Admin (para 4(c) of minutes)

Time marker	Speaker	Subject(s)	Action required
005332-005700	Chairman Administration	<p>Long title</p> <p>Part 1 – Preliminary (clauses 1 and 2)</p> <p>Commencement arrangements</p>	
005701-010546	Chairman Administration	Part 2 – amendments to LPO (clauses 3 to 10)	
010547-010706	Chairman Administration	Part 3 – amendment to the Administration of Estates by Consular Officers Ordinance (Cap. 191) (clause 11)	
010707-010752	Chairman Administration	Part 5 – amendment to Customs and Excise Service Ordinance (Cap. 342) (clause 13)	
010753-011408	Chairman Administration	Part 6 - amendments to Toys and Children's Products Safety Ordinance (Cap. 424) (clauses 14 to 16)	
011409-012718	Chairman Administration	<p>Part 7 – amendments relating to editorial powers (clauses 17 to 21)</p> <p>Members noted that clauses 17, 18(1), 19, 20 and 21(2) of the Bill sought to add the word "title" to the relevant provisions of the Legislation Publication Ordinance (Cap. 614) and the Laws (Loose-leaf Publication) Ordinance 1990 (51 of 1990) to the effect that the Secretary for Justice ("SJ") might "alter the title, short title or citation of [an] Ordinance".</p> <p>In response to members' enquiry, the Administration clarified that –</p> <p>(a) these amendments did not seek to grant any new editorial power to SJ, but to achieve consistency with section 13(2) of the Interpretation and General Clauses Ordinance (Cap. 1) which provided that "any reference made to any Ordinance may be made according to the title, short title, citation, number or chapter number used in copies of Ordinances "; and</p> <p>(b) "title" in the context of these provisions referred to the title of subsidiary legislation, and not the long title of a principal ordinance.</p> <p>Members' request for the Administration to provide examples of editorial amendments to explain the proposed additional editorial powers in relation to inserting after a reference to the title of</p>	<p>Admin (para 4(b) of minutes)</p>

Time marker	Speaker	Subject(s)	Action required
		an ordinance the chapter number given to that ordinance and inserting after a definition its English or Chinese equivalent.	
012719-013144	Chairman Administration	Part 9 – amendments to ensure that Assistant Principal Solicitors in the Intellectual Property Department are eligible to be appointed as certain judicial officers (clauses 34 to 43)	
013145-013517	Chairman Administration	Part 10 – amendments to references to Acceptance of Advantages (Chief Executive's Permission) Notice (clauses 44 to 49)	
013518-013929	Chairman Administration	Part 11 – amendments to provisions containing references to "coliform organisms" (clauses 50 to 55)	
013930-020335	Chairman Administration ALA1	<p>Part 12 – miscellaneous amendments and repeals (clauses 56 to 72)</p> <p>Members' request for the Administration to consider the appropriateness of the Chinese rendition ("看來是") of "purported" in the phrase "any purported disposition" in section 16(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) as amended in clause 63(2).</p> <p>The Administration advised that it would move Committee Stage amendments ("CSAs") to repeal the Hong Kong Airport (Control of Obstructions) (Consolidation) Order (Cap. 301A) and the Lifts and Escalators (Safety) (Fees) Regulations (Cap. 327A). Members requested the Administration to provide the draft CSAs for their consideration.</p>	<p>Admin (para 4(d) of minutes)</p> <p>Admin (para 4(e) of minutes)</p>
020336-020602	Chairman	Date of next meeting.	