

**立法會**  
***Legislative Council***

LC Paper No. CB(1)1280/14-15  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/6/13/1

**Bills Committee on Insurance Companies (Amendment) Bill 2014**

**Minutes of the twenty-third meeting on  
Tuesday, 2 June 2015, at 2:30 pm  
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon WONG Ting-kwong, SBS, JP (Chairman)  
Hon CHAN Kin-por, BBS, JP (Deputy Chairman)  
Hon James TO Kun-sun  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon Starry LEE Wai-king, JP  
Hon WONG Kwok-kin, SBS  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon WONG Yuk-man  
Hon NG Leung-sing, SBS, JP  
Hon YIU Si-wing  
Hon KWOK Wai-keung  
Hon Dennis KWOK  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Hon SIN Chung-kai, SBS, JP
- Members absent** : Hon Steven HO Chun-yin  
Dr Hon Fernando CHEUNG Chiu-hung
- Public officers attending** : Mr Eddie CHEUNG  
Deputy Secretary for Financial Services and the  
Treasury (Financial Services) 2

Ms Joan HUNG  
Principal Assistant Secretary for Financial Services and  
the Treasury (Financial Services) (Special Duties)

Ms Annie CHOI, JP  
Commissioner of Insurance

Miss Emma WONG  
Senior Government Counsel  
Department of Justice

Mr Peter SZE  
Senior Government Counsel  
Department of Justice

**Clerk in attendance :** Ms Connie SZETO  
Chief Council Secretary (1)4

**Staff in attendance :** Miss Winnie LO  
Assistant Legal Adviser 7

Mr Hugo CHIU  
Senior Council Secretary (1)4

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Action

**I Meeting with the Administration**

Administration's responses to outstanding issues

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|---------------------------------|--|
| LC Paper No. CB(1)877/14-15(05) | — Letter dated 22 May 2015 from<br>Legal Service Division to the<br>Administration         |
| LC Paper No. CB(1)914/14-15(01) | — Administration's response to<br>letter dated 22 May 2015 from<br>Assistant Legal Adviser |
| LC Paper No. CB(1)729/14-15(01) | — Letter dated 31 March 2015 from<br>Legal Service Division to the<br>Administration       |

- LC Paper No. CB(1)858/14-15(04) — Administration's response to letter dated 31 March 2015 from Assistant Legal Adviser
- LC Paper No. CB(1)824/14-15(06) — Letter dated 5 May 2015 from Legal Service Division to the Administration
- LC Paper No. CB(1)858/14-15(05) — Administration's response to letter dated 5 May 2015 from Assistant Legal Adviser
- LC Paper No. CB(1)858/14-15(03) — Administration's response to issues arising from the meetings and the industry

Consideration of Committee Stage amendments proposed by the Administration

- LC Paper No. CB(1)877/14-15(04) — Draft Committee Stage amendments proposed by the Administration

Other relevant papers

- LC Paper No. CB(1)1494/13-14(01) — Administration's paper on Insurance Companies (Amendment) Bill 2014
- LC Paper No. CB(3)581/13-14 — The Bill
- LC Paper No. CB(1)1636/13-14(01) — Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to Members)
- File Ref: C2/2/50C — Legislative Council Brief
- LC Paper No. LS50/13-14 — Legal Service Division Report
- LC Paper No. CB(1)1494/13-14(02) — Background brief on Insurance Companies (Amendment) Bill 2014 prepared by the Legislative Council Secretariat

Discussion

The Committee deliberated (Index of proceedings attached at **Appendix**).

**II Any other business**

Legislative timetable

2. The Chairman reiterated that subject to the Bills Committee's progress in scrutinizing the Bill, the Administration planned to resume the Second Reading debate on the Bill at the Council meeting of 8 July 2015.

Date of next meeting

3. The Chairman said that the next meeting would be held on 5 June 2015, at 10:45 am.

4. There being no other business, the meeting ended at 4:17 pm.

Council Business Division 1  
Legislative Council Secretariat  
30 September 2015

**Proceedings of the  
Bills Committee on Insurance Companies (Amendment) Bill 2014  
Twenty-third meeting on Tuesday, 2 June 2015, at 2:30 pm  
in Conference Room 2A of the Legislative Council Complex**

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000316 – 000345	Chairman	Introductory remarks	
000356 – 000436	Administration	Briefing by the Administration on the paper entitled "Administration's response to letter dated 22 May 2015 from Assistant Legal Adviser" [LC Paper No. CB(1)914/14-15(01)]	
<b>Consideration of Committee Stage amendments proposed by the Administration</b>			
000437 – 014628	Chairman Administration Mr SIN Chung-kai Deputy Chairman Assistant Legal Adviser 7 ("ALA7") Mr James TO	<p>Briefing by the Administration on the Chinese version of its proposed Committee Stage amendments ("CSAs") to the Bill [LC Paper No. CB(1)877/14-15(04)]</p> <p><u>CSAs to the revised section 9 of the Insurance Companies Ordinance (Cap. 41) ("ICO")</u></p> <p>Responding to Mr SIN's enquiry, the Administration explained that the term "Manager" in the revised section 9(1)(b) of ICO referred to the Manager appointed by the existing Insurance Authority or the future independent Insurance Authority ("IIA") to manage the affairs, business and property of an insurance company specified in the direction given by the existing Insurance Authority or the future IIA during certain specified period in accordance with section 35(2)(b) of ICO, and was not any manager of an insurance company.</p> <p><u>CSAs to the revised section 15B of ICO</u></p> <p>Responding to Mr SIN's enquiry, the Administration explained that the purpose of the proposed CSAs was to empower IIA to object to the appointment of an actuary by an insurer carrying on long term business. The relevant procedures were set out in the CSAs.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p><u>CSAs to the proposed new section 41B of ICO</u></p> <p>On Mr SIN's enquiry about the phrase "或相當可能有能力遵守或遵從" ("or is likely to be able to comply with"), the Administration explained that the proposed CSAs were to facilitate IIA to conduct inspections on authorized insurers. There were similar provisions in the Securities and Futures Ordinance (Cap. 571) and the Mandatory Provident Fund Schemes Ordinance (Cap. 485).</p> <p><u>CSAs to the proposed new section 64ZZF of ICO</u></p> <p>Responding to Mr SIN's enquiry, the Administration confirmed that IIA's inspectors had to obtain a magistrate's warrant for entering into domestic premises to conduct inspections.</p> <p><u>CSAs to the revised section 68 of ICO</u></p> <p>Mr TO was concerned that the Administration's proposed CSAs might reduce the level of protection of policy holders, and suggested that there should be provisions to enable the court to take into account other factors relevant in the circumstances in determining the liability of an authorized insurer for acts of its appointed agent.</p> <p>The Administration agreed to consider Mr TO's suggestion and work out the draft CSAs for members' consideration.</p> <p>The Administration confirmed that it would move CSAs to make other textual amendments to the Bill pursuant to earlier discussion with ALA7.</p> <p><u>"Best interests requirement" on licensed insurance intermediaries</u></p> <p>The Deputy Chairman relayed the submission from the Insurance Industry Regulatory &amp; Development Concern Group ("ICG"), which suggested further amendments to the proposed new section 89(a) of ICO to specify different best interests requirements for insurance agents and insurance brokers respectively, and considered that the Administration should consider ICG's</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>views. In view of ALA7's comments given at the meeting on 26 May 2015 on the proposed new section 89(a) of ICO, he considered that the Bills Committee should consider moving CSAs to the proposed new section 89(a) to specify the different "best interests requirements" for insurance agents and insurance brokers.</p> <p>The Administration responded that in working out the proposed arrangements, it had held in-depth discussions with the industry to address their concern about the "best interests requirement". The industry, including the Hong Kong Federation of Insurers, had accepted the proposed CSAs. It would be inappropriate to re-open the discussion.</p> <p>In response to members' enquiry, ALA7 said that the current proposal which subject both insurance agents and insurance brokers, belonging to two categories of insurance intermediaries, to the same provision of "best interests requirement" in the proposed new section 89(a) of ICO while setting out the different acts they were expected of in meeting the "best interest requirement" in IIA's code of conduct, might not be satisfactory. However, the proposed arrangements were not unacceptable.</p> <p>Noting ALA7's views, the Deputy Chairman remarked that he would not pursue moving CSAs to the proposed new section 89(a) of ICO.</p> <p>The Administration said that it would work out:</p> <ul style="list-style-type: none"> <li>(a) further proposed CSAs to the proposed amended section 68 of ICO;</li> <li>(b) technical amendment to the proposed CSAs to the proposed new section 89 of ICO in the light of ALA7's comments; and</li> <li>(c) consequential amendments to the Limited Liability Partnerships (Top-up Insurance) Rules (L.N. 103 of 2015).</li> </ul> <p>Members agreed that the Bills Committee would hold a meeting to examine the Administration's proposed CSAs.</p>	

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
014629 – 014749	Chairman	Date of next meeting	

Council Business Division 1  
Legislative Council Secretariat  
30 September 2015