

立法會
Legislative Council

Ref : CB2/BC/3/18

LC Paper No. CB(2)1457/18-19
(These minutes have been seen
by the Administration)

Bills Committee on National Anthem Bill

Minutes of the fourth meeting
held on Monday, 18 March 2019, from 8:45 am to 10:45 am
in Conference Room 1 of the Legislative Council Complex

Members present : Hon Martin LIAO Cheung-kong, SBS, JP (Chairman)
Hon CHEUNG Kwok-kwan, JP (Deputy Chairman)
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen

Dr Hon Elizabeth QUAT, BBS, JP
Dr Hon CHIANG Lai-wan, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Hon CHAN Chun-ying, JP
Hon Tanya CHAN
Hon HUI Chi-fung
Hon LUK Chung-hung, JP
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS
Hon CHAN Hoi-yan

Members absent : Hon James TO Kun-sun
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Steven HO Chun-yin, BBS
Dr Hon Fernando CHEUNG Chiu-hung

Public Officers attending : Mr Roy TANG Yun-kwong, JP
Permanent Secretary for Constitutional and Mainland Affairs

Ms Cordelia LAM Wai-ki
Principal Assistant Secretary for Constitutional and Mainland
Affairs

Ms Jocelyn NG Wai-chung
Assistant Secretary for Constitutional and Mainland Affairs

Mr Lawrence PENG Si-yun
Deputy Law Draftsman (Acting)
Department of Justice

Mr Jonathan LUK King-hang
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (2) 3

Staff in attendance : Mr Kelvin LEE
Senior Assistant Legal Adviser 3

Miss Rachel DAI
Assistant Legal Adviser 2

Ms Jasmine TAM
Senior Council Secretary (2) 3

Mr Dennis HO
Council Secretary (2) 3

Mrs Fonny TSANG
Legislative Assistant (2) 3

Action

I. Meeting with the Administration

[File Ref.: CMAB E4/1/1, LC Paper Nos. CB(2)995/18-19(01),
CB(3)307/18-19,LS42/18-19, CB(2)811/18-19(01) and
CB(2)893/18-19(02)]

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

Members' letters raising questions relating to the policy discussion of the Bill

2. The Chairman requested that members who wished to send letters to the Administration, through the Secretariat, raising questions relating to the policy

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discussion of the Bill to seek the Administration's written response should provide such letters to the Secretariat by 22 March 2019. Members' comments on the arrangement are summarized at **Annex**.

(At 9:08 am, the Chairman ruled that the conduct of Mr HUI Chi-fung was grossly disorderly and ordered him to withdraw immediately from the meeting in accordance with Rule 45(2) of the Rules of Procedure.)

(At 9:09 am, Mr CHAN Chi-chuen drew to the Chairman's attention that a quorum was not present. The Chairman ordered the ringing of the quorum bell to summon members to the meeting. The meeting resumed at 9:13 am when a quorum was present.)

Follow-up action required of the Administration

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3. The Administration was requested to provide the hyperlink to the Report of the Legislative Affairs Commission of the National People's Congress on proposed amendments to the Law of the People's Republic of China on the National Anthem (Second Draft) (全國人民代表大會法律委員會關於《中華人民共和國國歌法(草案二次審議稿)》修改意見的報告).

(At 10:47 am, the Chairman directed that the meeting be extended by 15 minutes beyond the appointed ending time.)

Date of next meeting

4. Members noted that the next meeting would be held on Wednesday, 27 March 2019, from 8:45 am to 10:45 am.

II. Any other business

5. There being no other business, the meeting ended at 11:00 am.

**Proceedings of the fourth meeting of the
Bills Committee on National Anthem Bill
on Monday, 18 March 2019, from 8:45 am to 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
001241 - 003648	Chairman Dr KWOK Ka-ki Ms Tanya CHAN Mr HUI Chi-fung Mr LEUNG Yiu-chung Mr AU Lok-hin	<p>Opening remarks</p> <p><u>Deadline for submission of written questions relating to the policy discussion of the Bill</u></p> <p>Some members expressed dissatisfaction with the imposition of the above deadline as they considered that the arrangement would prevent members from raising further questions in the light of new developments in the course of the scrutiny of the Bill, and members' scrutiny power would thus be undermined. They considered that it would also set a bad precedent. Moreover, they were concerned that the above arrangement might imply that members would no longer be allowed to raise questions on policy issues after the Bills Committee had commenced the clause-by-clause examination of the Bill.</p> <p>The Chairman clarified that the aforesaid arrangement would not prevent members from writing to the Administration to seek written response to questions relating to the policy discussion of the Bill after 22 March, but only that such letters would then be submitted by members to the Administration themselves rather than through the Secretariat. Members who wrote to the Administration after 22 March could copy their letters to other members and the Clerk if they wished. The Chairman further said that the Bill had been introduced into the Legislative Council ("LegCo") for over one month, and that the Bills Committee had already held three meetings to discuss relevant policy issues. He trusted that members should have no problem meeting the deadline. Moreover, he would still allow oral/written questions to be raised on policy issues relating to the provisions of the Bill during the clause-by-clause examination of the Bill.</p> <p><i>(Post-meeting note: members may refer to the Clerk's letter dated 3 April 2019 [LC Paper No. CB(2)1157/18-19(01)] for details of the relevant arrangements.)</i></p>	
003649 - 003947	Chairman Administration	The Administration's briefing on its response to issues raised at the meeting on 1 March 2019 [LC Paper No. CB(2)995/18-19(01)] ("the Administration's paper").	
003948 - 004414	Chairman Dr KWOK Ka-ki Administration	Referring to paragraphs 5 and 6 of the Administration's paper, Dr KWOK Ka-ki queried whether the Bill would be a new tool to restrict the right to the freedom of speech and to institute political prosecutions by charging dissidents the offence of insulting the national anthem. The Administration responded that all the legal proceedings relating to the offence would be conducted in accordance with the relevant common law principles and usual standard for criminal cases in Hong Kong.	

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004415 - 004836	Chairman Mr Alvin YEUNG Administration	<p>Referring to paragraph 15 of the Administration's paper, Mr Alvin YEUNG asked under what circumstances a school would be regarded as failing to comply with the directions given by the Secretary for Education ("SED") under clause 9 of the Bill and whether the Education Bureau ("EDB") would cancel the registration of a school due to its failure to comply with such directions.</p> <p>The Administration referred to similar experience in promoting the learning of the national flag and the national emblem for members' reference. It said that following the enactment of the National Flag and National Emblem Ordinance ("NFNEO"), SED had issued, through the existing mechanism, a circular to schools to provide guidelines on the display of the national flag. The circular did not prescribe specifically how schools should teach students about the national flag and national emblem. Regarding the handling of non-compliance with SED's directions, EDB all along had administrative measures in place to follow up complaints about irregularities identified in school operation, such as giving verbal/written advice. According to EDB, as such irregularities were usually rectified by the schools concerned swiftly, the Permanent Secretary for Education ("PSED") had not considered invoking the relevant provision of the Education Ordinance (Cap. 279) to cancel the registration of any school.</p> <p>In response to Mr YEUNG's further enquiry, the Administration confirmed that how a school would teach the national anthem would have no direct bearing on the school's registration or the cancellation of its registration.</p>	
004837 - 005254	Chairman Mr CHAN Chi-chuen Administration	<p>Referring to paragraph 3 of the Administration's paper to his letter dated 11 March 2019 [LC Paper No. CB(2)1014/18-19(04)], Mr CHAN Chi-chuen asked whether a Hong Konger who performed the same acts as the two Mainlanders concerned in Hong Kong would commit an offence under the Bill. The Administration responded that the enforcement agencies would, according to the actual circumstances and the evidence collected in each case, make an assessment in accordance with the laws of Hong Kong. All the legal proceedings would be conducted in accordance with the relevant common law principles and usual standard for criminal cases in Hong Kong.</p>	
005255 - 005950	Chairman Mr AU Nok-hin Administration	<p>Citing the legislation related to national anthem and relevant court cases in Germany, Mr AU Nok-hin asked whether the Administration would need to review the definition of relevant terms (e.g. defamation) in local legislation so as to ensure that the restrictions imposed by the Bill would not affect the right to the freedom of speech and expression guaranteed by the Basic Law.</p> <p>The Administration made reference to the judgment of the Court of Final Appeal in <i>HKSAR v. Ng Kung Siu and another (1999)</i>, which stated that "[t]he criminalization of flag desecration was a justifiable restriction on the guaranteed right to the freedom of expression". The Administration</p>	

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		<p>took the view that the restriction on the right to the freedom of speech and of expression imposed by the Bill was a limited and proportional one and was not inconsistent with the guaranteed right to the freedom of speech and of expression as explained in its paper [LC Paper No. CB(2)893/18-19(02)]. The Administration further said that the Bill already provided for a definition of "insult" in the context of the national anthem. It would not be necessary to make reference to other local legislation in interpreting the relevant provisions of the Bill.</p>	
005951 - 010128	<p>Chairman Mr WU Chi-wai Administration</p>	<p>Mr WU Chi-wai asked whether citing a part of the lyrics of the national anthem in one's creation would constitute an offence under the Bill. The Administration advised that it would depend on whether the creation resembled the national anthem so closely as to lead to the reasonable belief that it was the national anthem or a part of the national anthem and if so, part 3 of the Bill would come into play. Nevertheless, the threshold of the offence of insulting the national anthem under clause 7 of the Bill was high.</p>	
010129 - 010605	<p>Chairman Mr CHU Hoi-dick Administration</p>	<p>Mr CHU Hoi-dick said that according to Article 15 of the Law of the People's Republic of China on the National Anthem ("National Anthem Law"), an offender could be subject to administrative detention for not more than 15 days by the Mainland security authorities or a maximum penalty of three years' imprisonment if a crime was committed. He questioned why the Administration did not provide for two-tier penalties under the Bill.</p> <p>The Administration explained that different penalties were already provided for under the Bill. A person who committed an offence under clause 6(3) would be liable, on conviction for a contravention of clause 6(1)(a), to a fine at level 5, or otherwise, to a fine at level 2, whereas the level of penalty provided in Clause 7(6) was up to a fine at level 5 and imprisonment for 3 years, which was the same as that in respect of desecrating the national flag or national emblem in NFNEO. The court would decide whether and what penalties should be imposed on an offender having regard to the circumstances of each case.</p>	
010606 - 011019	<p>Chairman Dr CHENG Chung-tai Administration Senior Assistant Legal Adviser</p>	<p>Dr CHENG Chung-tai expressed concern about whether a Hong Konger who was involved in an act to insult the national anthem in a public event outside Hong Kong would contravene the law if the act was recorded and relevant footage was published on the Internet. He also asked whether there was a definition of "publicly".</p> <p>The Administration and Senior Assistant Legal Adviser both advised that as there was no legal definition of the word "publicly", it should be read by its natural and ordinary meaning.</p>	
011020 - 011437	<p>Chairman Mr LEUNG Yiu-chung Administration</p>	<p>Mr LEUNG Yiu-chung suggested that the Administration should consider providing alternative arrangements (e.g. an option for a Police Superintendent to exercise discretion to</p>	

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		<p>issue a caution to the offender) for dealing with offences of a relatively minor nature under the Bill (e.g. misuse of national anthem at a private funeral). He also enquired about the standard to be applied in law enforcement.</p> <p>The Administration pointed out that the Police Superintendent's Discretion Scheme applied only to children and teenagers aged between 10 and 18. The Administration further explained that clause 6 of the Bill was drafted with reference to Article 8 of the National Anthem Law, which stipulated that the national anthem or its lyrics or score must not be used at, among other occasions, private funeral events. Under clause 6, a person who used the national anthem at a private funeral event was liable on conviction to a fine at level 2 (i.e. \$5,000).</p>	
011438 - 011745	Chairman Mr AU Nok-hin Administration	<p>Mr AU Nok-hin queried whether assessment had been made by the Hong Kong Special Administration Region ("HKSAR") Government as to whether the addition of the National Anthem Law to Annex III to the Basic Law was consistent with Article 18 of the Basic Law ("BL 18"), which stipulated that the national laws listed in Annex III to the Basic Law should be confined only to those relating to defence and foreign affairs as well as other matters outside the limits of HKSAR's autonomy as specified by the Basic Law.</p> <p>The Administration explained that the Standing Committee of the National People's Congress ("NPCSC") made the decision to add the National Anthem Law to Annex III to the Basic Law pursuant to Article 67 of the Constitution of the People's Republic of China ("the Constitution"). In making the decision, NPCSC was bound to have regard to Article 31 of the Constitution, pursuant to which the Basic Law of HKSAR was enacted by the National People's Congress. Relevant court rulings in Hong Kong had also affirmed that a decision made by NPCSC was itself proof of the constitutionality of the arrangement in question.</p> <p>Mr AU queried why the inclusion of the National Anthem Law in Annex III to the Basic Law was consistent with BL 18, given that education was within the limits of HKSAR's autonomy according to BL 136. He pointed out that the National Anthem Law had imposed a requirement for the inclusion of the national anthem in the curricula of primary and secondary schools.</p> <p>The Administration reiterated that the NPCSC's decision to add the National Anthem Law to Annex III to the Basic Law was made pursuant to Article 67 of the Constitution. The decision was legally binding on HKSAR and was without doubt consistent with the Basic Law. The Administration referred members to the Court of First Instance's judgment in judicial review cases relating to the co-location arrangement at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for relevant explanation (HCAL 1160, 1164, 1165, 1171, 1178/2018).</p>	

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011746 - 012054	Chairman Dr KWOK Ka-ki Administration	<p>Dr KWOK Ka-ki queried that the proposed penalties were so heavy that they were disproportionate to the gravity of the offences concerned. He was also of the view that the proposed two-year prosecution time bar was unreasonable. Referring to paragraph 13 of the Administration's paper, Dr KWOK questioned why the Administration did not follow the approach adopted by those advanced countries which did not enact a national anthem law.</p> <p>The Administration explained that each country or place had her own history, constitutional system and actual situations, and therefore different approaches were adopted. The Administration pointed out that Chapter IV of the Constitution stipulated the national flag, national emblem, national anthem and capital of the People's Republic of China. The national flag, national emblem and national anthem were the symbol and sign of the country. The Administration considered it appropriate to align the level of penalties provided under the Bill with that provided under NFNEO for similar offences.</p>	
012055 - 012422	Chairman Dr CHENG Chung-tai Administration	<p>In reply to Dr CHENG Chung-tai's earlier enquiry, the Administration explained that the person referred to by Dr CHENG would not be caught by the Bill as it had no extraterritorial effect. However, if that person or a third party published the relevant footage on the Internet with intent to insult the national anthem, they might contravene clause 7(4) of the Bill.</p> <p>Dr CHENG further enquired whether clause 7(4) would apply if the relevant footage was broadcast on television in Hong Kong. The Administration advised that the question of whether clause 7(4) was contravened hinged on whether the relevant act of publishing was performed with intent to insult the national anthem.</p>	
012423 - 012752	Chairman Mr Alvin YEUNG Administration	<p>In response to Mr Alvin YEUNG's enquiry, the Administration advised that the Government had not considered any occasions, places or purposes prohibited for the use of the national anthem other than those specified in clause 6(1) and (2) at the moment. Changes to those specified would need to be effected by way of the negative vetting procedure.</p>	
012753 - 013147	Chairman Mr CHAN Chi-chuen Administration	<p>Mr CHAN Chi-chuen asked whether a person who shared the hyperlink of a website the content of which constituted an insult to the national anthem would be construed as "publishing" the insulting of the national anthem under the Bill. He also enquired about the standard to be adopted in law enforcement.</p> <p>The Administration pointed out that a definition of "publish" was provided under clause 7 of the Bill. The Bill contained a provision (clause 7(5)) to protect the publishing of materials to insult the national anthem with reasonable grounds (e.g. fair reporting by the media), making it clear for the public that such acts of publishing with no intent to insult the national anthem would not constitute a criminal offence.</p>	

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013148 - 013507	Chairman Mr CHU Hoi-dick Administration	Mr CHU Hoi-dick queried why clauses 7(3), (4) and (5) were included in the Bill even though the word "publish" was not found in the corresponding Article of the National Anthem Law (i.e. Article 15). The Administration explained that the aforementioned clauses sought to reflect the relevant requirement of the National Anthem Law which was elaborated in the Report of the Legislative Affairs Commission of the National People's Congress on proposed amendments to the Law of the People's Republic of China on the National Anthem (Second Draft) (全國人民代表大會法律委員會關於《中華人民共和國國歌法(草案二次審議稿)》修改意見的報告). At Mr CHU's request, the Administration agreed to provide the hyperlink to the Report.	Admin (para. 3 of minutes
013508 - 013812	Chairman Mr AU Nok-hin Administration	<p>Mr AU Nok-hin asked whether the HKSAR Government had submitted views to NPCSC on what matters were within the limits of HKSAR's autonomy as specified by the Basic Law. The Administration explained that the 1990 Law of the People's Republic of China on the National Flag and the 1991 Law of the People's Republic of China on the National Emblem had undergone the same procedure before being added to Annex III to the Basic Law. The Administration pointed out that as the national flag, national anthem and national emblem were stipulated in the Constitution and they were the symbol and sign of the country, it was not possible that they were within the limits of HKSAR's autonomy.</p> <p>As regards concern about whether the Bill was consistent with BL 136, the Administration referred to the arrangements that had been made by SED on matters relating to the display of the national flag by schools following the enactment of NFNEO for members' reference. The Administration said that SED had issued, through the existing mechanism, a circular to schools to provide guidelines on the display of the national flag, which set out that "Schools are also encouraged to raise the national flag and regional flag regularly...". Based on the above experience, the Administration did not consider that the Bill entailed interference in the educational matters of HKSAR.</p>	
013813 - 014110	Chairman Mr Alvin YEUNG Administration	<p>Referring to the Administration's current plan to introduce amendments to the Fugitive Offenders Ordinance (Cap. 503) ("FOO"), Mr Alvin YEUNG asked whether a Hong Konger who performed the acts as described in paragraph 10 of the Administration's paper in the Mainland would be subject to the extradition arrangement after returning to Hong Kong in future.</p> <p>The Administration advised that the extradition arrangement provided under FOO might apply only if the Bill was passed and the offences stipulated therein were included in the relevant Schedule to FOO. In response to Mr YEUNG's further enquiry, the Administration said that it had twice contacted the Liaison Office of the Central People's Government in HKSAR and the information obtained about</p>	

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		the two Mainland cases concerned was set out in the Administration's paper.	
014111 - 014430	Chairman Dr KWOK Ka-ki Administration	Dr KWOK Ka-ki asked when the HKSAR Government was consulted by NPCSC on the proposal to add the National Anthem Law to Annex III to the Basic Law and why the HKSAR Government had not consulted LegCo Members and the public before submitting its views to NPCSC. The Administration reiterated that the Government would not make public the communication and discussion between the Government and Mainland authorities. If a national law was to be implemented in Hong Kong by local legislation instead of by promulgation, the Government could take into account the views of LegCo Members and the public during the local legislative process.	
014431 - 014846	Chairman Mr IP Kin-yuen Administration	<p>Mr IP Kin-yuen expressed concern about what would and would not be included in the directions to be given by SED under clause 9 of the Bill. He also asked why such directions were to be given by SED and not by PSED.</p> <p>The Administration advised that SED had issued, through the existing mechanism, a circular to schools to provide guidelines on the display of the national flag and regional flag (EDB Circular No. 5/2010). It was stated in the circular that schools were advised to display the national flag and regional flag on important days and special occasions, and that they were encouraged to raise the national flag and regional flag regularly. According to EDB, a similar approach would be adopted to provide schools with guidelines on the playing and singing of the national anthem in schools after the passage of the Bill.</p>	
014847 - 015320	Chairman Ms Claudia MO Administration	Ms Claudia MO criticized the Administration for refusing to provide details of the communication between the HKSAR Government and NPCSC on the addition of the National Anthem Law to Annex III to the Basic Law. The Administration reiterated its stance on the matter.	
015321 - 015738	Chairman Dr Helena WONG Administration	<p>Dr Helena WONG considered it inappropriate for the Administration to seek to promote respect for the national anthem by criminalization. She enquired about the justifications for stipulating a maximum penalty of a fine at level 5 and 3 years' imprisonment for the offence of insulting the national anthem under the Bill, which, in her view, was the harshest as compared with relevant legislation of other jurisdictions as set out in the Administration's paper.</p> <p>The Administration clarified that the Bill did not impose sanctions on not paying respect to the national anthem. The penal provisions in the Bill only sought to deal with misuse of the national anthem and public and intentional behaviour with intent to insult the national anthem. The Administration further explained that since the national flag, national emblem and national anthem were the symbol and sign of the country stipulated in the Constitution, it was necessary to align the maximum penalty for the offence of insulting the national</p>	

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		anthem with that for similar offences under NFNEO. The court would decide whether and what penalties should be imposed on a person who contravened the relevant provision(s) of the Bill.	
015739 - 020212	Chairman Mr Holden CHOW Administration	Mr Holden CHOW considered that it had been clearly stated in the Bill that the act of publishing in relation to insulting the national anthem would constitute an offence only if such act was performed with intent to insult the national anthem. He also considered that a relatively lenient approach had been adopted in drafting the Bill as the penal provisions were designed mainly to deal with public and intentional behaviour with intent to insult the national anthem.	
020213 - 020600	Chairman Mr CHAN Chi-chuen Administration	<p>Mr CHAN Chi-chuen asked whether a LegCo Member-elect who did not sing the national anthem when it was being played and sung at the oath-taking ceremony of LegCo Members would be regarded as not having made or subscribed an oath or affirmation in accordance with the provisions of the Oaths and Declarations Ordinance (Cap. 11) ("ODO").</p> <p>The Administration explained that as the oath-taking ceremony of LegCo Members was included in Schedule 3 to the Bill, the playing and singing of the national anthem would form part of the oath-taking ceremony if the Bill was passed. As to whether a LegCo Member had made or subscribed an oath or affirmation in accordance with the provisions of ODO, it was a matter for the court to decide. Relevant court rulings had affirmed that the Interpretation of BL 104 by NPCSC had not imposed any additional requirements other than those already set out in ODO. The Administration further said that since a candidate was already required by law to submit during the nomination period a nomination form including a declaration that he/she would uphold the Basic Law and pledge allegiance to HKSAR, the Administration did not envisage that the inclusion of the playing and singing of the national anthem as part of the oath-taking ceremony of LegCo Members would cause any inconvenience to the LegCo Members-elect concerned.</p>	
020601 - 021020	Chairman Dr CHIANG Lai-wan Administration	Dr CHIANG Lai-wan asked whether a person who stood up but crossed his/her forearms on his/her chest during the playing and singing of the national anthem would be regarded as insulting the national anthem. The Administration advised that while clause 4 provided for the etiquette to be followed by persons who took part in or attended the occasion on which the national anthem was being played and sung, it was meant to be a directional provision which did not provide for any penalty. That said, it was for the court to decide whether or not a specific act would amount to an offence of insulting behaviour against the national anthem under clause 7.	
021021 - 021347	Chairman Mr CHU Hoi-dick Administration	Mr CHU Hoi-dick expressed concern that the meaning of the expression "insults the national anthem in any way" in clause 7(2) of the Bill was unclear. He was also concerned	

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		<p>that while it was similar to "insults the national anthem in any other manner" in Article 15 of the National Anthem Law, the relevant legislation enacted by Macao for implementing the National Anthem Law did not contain the same formulation.</p> <p>The Administration clarified that section 13 of the relevant ordinance in Macao also provided that deliberate performance of certain acts, in particular but not limited to acts specified in that section, constituted an offence of insulting the symbol and sign of the country. The Administration further pointed out that the formulation of "in any way" was adopted in over 200 pieces of legislation in Hong Kong.</p>	
021348 - 021624	Chairman Mr AU Nok-hin Administration	<p>Mr AU Nok-hin commented that the Administration's earlier replies to his questions seemed to show that HKSAR Government had failed to clearly reflect to NPCSC what matters were within the limits of HKSAR's autonomy when it was consulted by NPCSC prior to the inclusion of the National Anthem Law to Annex III to the Basic Law. He disagreed that the National Anthem Law did not touch on matters which were within the limits of HKSAR's autonomy.</p> <p>The Administration reiterated that relevant court rulings had affirmed that a decision made by NPCSC in accordance with Article 67 of the Constitution must be consistent with the fundamental principle of "one country, two systems" and the Basic Law.</p>	
021625 - 021847	Chairman Mr Alvin YEUNG Administration	<p>In reply to Mr Alvin YEUNG's enquiry, the Administration explained the difference between the interpretation of a reference to playing and singing the national anthem in clause 5(3) and that in clause 2(3) of the Bill.</p> <p>On Mr YEUNG's further enquiry about whether the attendees of the occasions set out in Schedule 3 to the Bill must sing the national anthem, the Administration advised that clause 5(3) provided that the national anthem or its official recording must be played on the occasions concerned "for the singing of the national anthem". However, it did not specify that the attendees had to be able to sing the national anthem having regard to the fact that the presence of foreign judges was expected on some of the occasions set out in Schedule 3.</p>	
021848 - 021901	Chairman	<p>Date of next meeting</p> <p>Closing remarks</p>	