

立法會
Legislative Council

Ref : CB4/BC/10/20

LC Paper No. CB(4)1709/20-21
(These minutes have been seen
by the Administration)

Bills Committee on Personal Data (Privacy) (Amendment) Bill 2021

**Minutes of the third meeting
held on Wednesday, 25 August 2021, from 9:00 am to 10:45 am
in Conference Room 2 of the Legislative Council Complex**

- Members present** :
- Hon Alice MAK Mei-kuen, BBS, JP (Chairman)
 - Hon YUNG Hoi-yan, JP (Deputy Chairman)
 - Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
 - Hon Mrs Regina IP LAU Suk-ye, GBM, GBS, JP
 - Hon MA Fung-kwok, GBS, JP
 - Hon LEUNG Che-cheung, SBS, MH, JP
 - Hon KWOK Wai-keung, JP
 - Hon Christopher CHEUNG Wah-fung, SBS, JP
 - Hon Elizabeth QUAT, BBS, JP
 - Ir Dr Hon LO Wai-kwok, GBS, MH, JP
 - Hon CHUNG Kwok-pan
 - Dr Hon Junius HO Kwan-yiu, JP
 - Hon Holden CHOW Ho-ding
 - Hon SHIU Ka-fai, JP
 - Hon CHEUNG Kwok-kwan, JP
 - Hon LUK Chung-hung, JP
- Members absent** :
- Hon Paul TSE Wai-chun, JP
 - Hon CHAN Han-pan, BBS, JP
 - Dr Hon CHENG Chung-tai

Public Officers : Item I
attending

The Administration

Mr Erick TSANG, IDSM, JP
Secretary for Constitutional and Mainland Affairs

Ms Maisie CHAN, JP
Deputy Secretary for Constitutional and Mainland Affairs

Mr Jacky LUM
Principal Assistant Secretary for Constitutional and
Mainland Affairs

Office of the Privacy Commissioner for Personal Data

Ms Ada CHUNG
Privacy Commissioner for Personal Data

Mr Dennis NG
Senior Legal Counsel (Acting)

Ms Amy CHAN
Chief Personal Data Officer

Department of Justice

Mr Henry CHAN
Senior Assistant Law Draftsman

Mr Michael WONG
Senior Assistant Director of Public Prosecutions

Ms Florence LING
Senior Assistant Law Officer (Civil Law)(Advisory) I
(Acting)

Miss Cherry HO
Senior Public Prosecutor (Manager)

Mr Michael CHOI
Senior Government Counsel (Acting)

Clerk in attendance : Ms Angel WONG
Chief Council Secretary (4)4

Staff in attendance : Miss Joyce CHAN
Assistant Legal Adviser 1

Miss Wincy LO
Senior Council Secretary (4)4

Ms Rachel WONG
Council Secretary (4)4

Ms Sandy HAU
Legislative Assistant (4)4

Action

I. Meeting with the Administration

[Legislative Council Brief issued by the Constitutional and Mainland Affairs Bureau on 14 July 2021 (CMAB/CR/7/22/45), LC Paper Nos. CB(3)798/20-21, LS100/20-21, CB(4)1317/20-21(01) to (03), CB(4)1363/20-21(01) to (03), CB(4)1421/20-21(01) to (02) and CB(4)1427/20-21(01) to (02)]

The Chairman requested the Administration to provide a written response to the submissions received.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(4)1521/20-21(01) on 9 September 2021.)

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

Legislative timetable

3. Members noted the Administration's intention to resume the Second Reading debate on the Personal Data (Privacy)(Amendment) Bill 2021 ("the Bill") at the Council meeting of 13 October 2021. The Chairman would make a verbal report on the deliberations of the Bills Committee to the House Committee on 24 September 2021. The deadline for giving notice of amendments to the Bill, if any, would be 4 October 2021.

Action

(Post-meeting note: Members were informed via LC Paper No. CB(4)1462/20-21 that the Second Reading debate on the Bill would be resumed at the Council meeting of 29 September 2021 instead.)

II. Any other business

4. There being no other business, the meeting ended at 10:23 am.

Council Business Division 4
Legislative Council Secretariat
2 November 2021

**Proceedings of the third meeting of the
Bills Committee on Personal Data (Privacy) (Amendment) Bill 2021
held on Wednesday, 25 August 2021, from 9:00 am to 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000611-000741	Chairman	Opening remarks	
000742-000912	Chairman Administration	<u>Continuation of the examination of clause 10 (proposed sections 66H to 66R)</u> <i>Proposed section 66H</i> Members raised no question	
000913-001303	Chairman Administration Assistant Legal Adviser 1 ("ALA1")	<i>Proposed section 66I</i> Whether refusal to comply with a request made by the Privacy Commissioner for Personal Data under the proposed section 66D(2) or a warrant issued pursuant to the proposed section 66G(1), or resisting a search pursuant to the proposed section 66H(1) on the basis of legal professional privilege would constitute a reasonable excuse under the proposed section 66E(3), or a lawful excuse under the proposed section 66I Whether the Administration would consider adding an express provision on claim of legal professional privilege	
001304-001619	Chairman Administration	<i>Proposed sections 66J and 66K</i> Members raised no question	
001620-002159	Chairman Dr Priscilla LEUNG Administration	<i>Proposed section 66L</i> Expected effectiveness of the Bill in tackling doxxing on social media platforms with the commencement of a new school year Suggestion of promoting among children and youngsters the importance of respecting others' personal data privacy and appealing to netizens not to publish others' personal data	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
002200-002921	Chairman Administration Mr Christopher CHEUNG ALA1	<i>Proposed sections 66M and 66N</i> Meaning of " <u>able</u> to take a cessation action" in relation to an electronic message under the proposed section 66M, and whether employees of a service provider would be served with a cessation notice; whether an employee would bear any legal liability in relation to a cessation notice served on e.g. the company he is employed under Appeal against the cessation notices	
002922-003020	Chairman Administration Deputy Chairman	<i>Proposed section 66O(1)</i> Members raised no question	
003021-004031	Chairman Administration Deputy Chairman Mr CHUNG Kwok-pan	<i>Proposed sections 66O(2) and (3)</i> Discussion on the Administration's proposed deletion of section 66O(2)(b)(iv) and addition of an immunity clause (proposed new section 66OA) The Bills Committee raised no objection to the aforesaid amendment	
004032-004358	Chairman Administration	<i>Proposed sections 66P to 66R</i> Members raised no question	
004359-005614	Chairman Administration Mr CHUNG Kwok-pan ALA1	<u>Examination of clause 11</u> Expected effectiveness of the Bill in requesting overseas social media platforms to remove web links containing doxxing contents In relation to the proposed amendments to section 68 of the Personal Data (Privacy) Ordinance (Cap. 486), enquired whether the Administration would consider making reference to Order 11 of the Rules of the High Court (Cap. 4A) in relation to service of process out of jurisdiction in relation to service of cessation notice on a person outside Hong Kong, and adding a provision on proof of service of cessation notices	
005615-005840	Chairman Administration	<u>Examination of clause 12</u> Members raised no question	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
005841-010031	Chairman Administration Mr CHUNG Kwok-pan	<u>Examination of clause 13</u> Clarification on the term "告發" in the warrant authorizing exercise of powers in relation to premises or electronic device for specified investigation (Part 3)	
010032-010213	Chairman Administration	<u>Examination of clause 14</u> Members raised no question	
010214-010219	Chairman	Completion of the clause-by-clause examination of the Bill	
010220-010307	Chairman	Legislative timetable	
010308-012201	Chairman Dr Junius HO Administration	Expected effectiveness of the Bill in tackling doxxing on overseas online platforms Whether an internet talk show host who disclosed the personal data of a data subject and his/her family members in a talk show would commit an offence under the Bill	
012202-012645	Chairman Deputy Chairman Administration	Administration's explanation for not including cohabiting partners in the definition of "family member" in the Bill	
<i>Agenda Item II - Any other business</i>			
012646-012721	Chairman	Closing remarks	