
WRITTEN ANSWERS**Annex I****Written answer by the Secretary for Security to Mrs Selina CHOW's supplementary question to Question 3**

Having checked with the Immigration Department, I regret to inform Members that we do not keep such statistics.

Annex II**Written answer by the Secretary for Works to Mr LEE Wing-tat's supplementary question to Question 4**

An information note is now provided for Members' information.

Information on the Private Slopes of Grenville House

- (i) A private retaining wall No. 11SW-B/R322 below Grenville House was found to be below current standard and a Dangerous Hillside (DH) Order was issued by the Buildings Authority (BA) in July 1996 requiring responsible owners to investigate the wall and submit remedial works proposals. Please refer to the attached location plan.
- (ii) The Authorized Person (AP), appointed by the Incorporated Owners of Grenville House, has commenced site investigation works. The AP has the responsibility for monitoring stability of the retaining structure until the completion of preventive works, and giving warning of any impending danger.
- (iii) While Government will process the remedial proposals for compliance with the DH Order requirement, the responsibility rests with the owners and the AP concerned to complete the works required by the DH Order. If any owner default an Order, the BA may carry out such required works and recover the costs plus supervision charges from the owners. The BA may also prosecute any person who fails to comply with the Order without a reasonable excuse under section 40(1B) of the Buildings Ordinance.

WRITTEN ANSWERS — *continued*

- (iv) There is another large private cut slope (Slope No. 11SW-B/C92) behind Grenville House. This slope was studied previously under Geotechnical Engineering Office's systematic programme. Although the slope was found not to be dangerous at that time, an advisory letter was, however, issued on 8 April 1986 by the BA to Grenville House, stressing the need of proper maintenance for the slope. It is noticed that regular slope maintenance works have been carried out by the owners.

WRITTEN ANSWERS — *continued*

Annex III

INDEPENDENT POLICE COMPLAINTS COUNCIL BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for SecurityClauseAmendment Proposed

2

(a) In the definition of "complaint" -

(i) in paragraph (a), by deleting "or" at the end;

(ii) in paragraph (b), by deleting the comma and substituting "; or";

(iii) by adding -

"(c) the conduct of any member of the police force which may be regarded as an abuse of his position or identity as a member of the police force,".

(b) By deleting the definition of "witness" and substituting -

""witness" (證人) means a person who in the opinion of the Council may be able to provide information or other assistance to the Council in connection with the exercising of its functions under this Ordinance.".

4

(a) In subclause (1)(b), by deleting "the Commissioner for Administrative Complaints appointed under the Commissioner for Administrative Complaints Ordinance" and substituting "The Ombudsman appointed under The Ombudsman Ordinance".

ClauseAmendment Proposed

(b) By adding -

"(1A) Notwithstanding subsection (1), any person who is a member of the police force shall not be appointed by the Governor under that subsection."

5 By adding -

"(3) Notwithstanding subsection (2)(e), a resolution is not valid and effectual where 2 or more members notify the Secretary in writing that the papers referred to in that subsection should be discussed at a meeting."

6 (a) In the heading by adding "**and Legal Adviser**" after "**Secretary**".

(b) By deleting subclause (1) and substituting -

"(1) The Council shall appoint a Secretary and a Legal Adviser of the Council who shall not be a member of the Council."

7 (a) By deleting paragraph (a) and substituting -

"(a) to monitor and review the manner in which complaints are handled by the police force;"

(b) By adding -

"(aa) to review the findings of the investigation conducted by the police force in respect of complaints;"

ClauseAmendment Proposed

- (c) In paragraph (d), by adding "and investigation" after "handling".

8

- (a) By adding -

"(da) require the Commissioner to notify the person who made the complaint of the findings and the results of the investigation, if any, in respect of his complaint;

(db) require the Commissioner to submit to the Council a report on any action taken by the police force in respect of the recommendations made by the Council under section 7(d);".

- (b) In subclause (2), by deleting "(d) or (e)" and substituting "(d), (da), (db) or (e)".

9

- (a) In subclause (2)(c), by adding "and investigation" after "handling".

- (b) In subclause (3), by deleting "its recommendations referred to in subsection (2)(c)" and substituting "the matters referred to in subsection (2)".

- (c) By adding -

"(5) The Council may, if it considers appropriate, request the Commissioner to submit an interim report on the progress of the investigation of a complaint within 6 months from the date of the request and advise the Commissioner in writing in relation to any matter referred to in that report.".

<u>Clause</u>	<u>Amendment Proposed</u>
10	<p>(a) In subclause (1), by deleting "interview any witness in connection with the complaint" and substituting", in connection with the complaint, interview any witness".</p> <p>(b) By adding -</p> <p>"(1A) At any time after the Commissioner has submitted an interim report in respect of a complaint to the Council pursuant to section 9(5), the Council or any one of its members may with the consent of the Commissioner, in connection with the complaint, interview any witness.</p> <p>(1B) The Commissioner shall give his consent referred to in subsection (1A) unless he is of the opinion that such interview would likely prejudice the investigation of any crime or complaint."</p>
11	<p>By adding -</p> <p>"(5) For the purpose of this section, member includes the Secretary of the Council, the Legal Adviser of the Council, any former member of the Council, any former Secretary of the Council and any former Legal Adviser of the Council."</p>
13	<p>By adding -</p> <p>"(4) The Governor may cause the report referred to in subsection (2) or any part of such report to be laid before the Legislative Council."</p>

ClauseAmendment Proposed

14

(a) By deleting paragraph (a) and substituting -

"(a) the discharge by the Council of its functions and
duties under this Ordinance;"

(b) By deleting paragraph (b).

INDEPENDENT POLICE COMPLAINTS COUNCIL BILL

COMMITTEE STAGE

Amendments to be moved by the Hon. James TO Kun-sun

<u>Clause</u>	<u>Amendment Proposed</u>
4	<p>(a) In subclause (1)(a), by deleting everything after "8 other members," and substituting -</p> <p>"among the Chairman, Vice Chairman and members, there shall be at least 2 members of the Legislative Council; and the Chairman, Vice Chairman and members shall be appointed by the Governor for a term of 2 years;".</p> <p>(b) In subclause (1), by adding -</p> <p>"(c) the Commissioner for the Independent Commission Against Corruption appointed under the Independent Commission Against Corruption Ordinance (Cap. 204) (who shall be an ex officio member thereof), or a person nominated by him as his representative.".</p> <p>(c) By adding -</p> <p>"(1A) Notwithstanding subsection (1), any person who is or has been a member of the police force shall not be appointed by the Governor under that subsection.".</p>

ClauseAmendment Proposed

6

(a) In the heading, by adding ", etc." after "**Appointment of Secretary**".

(b) By adding -

"(3) The Council shall have a Secretariat for which the Chairman may appoint such technical, professional persons or other persons, as he thinks fit to assist the Council in the performance of its functions and the exercise of its powers under this Ordinance."

(c) By adding -

"(4) Section 6(3) shall come into operation on a day to be appointed by a resolution of the Legislative Council."

7

(a) By renumbering the clause as clause 7(1).

(b) In subclause (1), by adding -

"(e) to determine whether the findings and the results of any investigation in respect of a complaint submitted by the Commissioner is acceptable or not and to make its findings and results, and to advise the Commissioner or, where appropriate, the Governor, on the action taken or to be taken in connection with that complaint;"

ClauseAmendment Proposed

(c) In subclause (1), by adding -

"(f) to investigate any complaint where it is not satisfied with the report of the investigation submitted under section 9(1) or (2A) in respect of such complaint."

(d) By adding -

"(2) Subsection (1)(f) shall come into operation on a day to be appointed by a resolution of the Legislative Council."

8

(a) In subclause (1), by adding -

"(ba) investigate any complaint where it is not satisfied with the report of the investigation submitted under section 9(1) or (2A) in respect of such complaint and require the Commissioner to assist in the investigation of such complaint;"

(b) In subclause (1), by adding -

"(fa) refer to -

(i) the Attorney-General; or

ClauseAmendment Proposed

(ii) the Commissioner of the
Independent Commission
Against Corruption.

any matter in respect of a complaint;

(fb) require that it be consulted by the
Commissioner of any amendments
to be made to the police general
orders or headquarter orders made
under sections 46 and 47 of the
Police Force Ordinance (Cap. 232)
in respect of the handling or
investigation of complaints, and may
make recommendations in this
regard;".

(c) By adding -

"(1A) Subsection (1)(ba) shall come
into operation on a day to be appointed by
a resolution of the Legislative Council.".

(d) In subclause (2), by adding ",(ba)"
after "(b)".

(e) In subclause (2), by deleting "unless
he is satisfied that compliance with the
requirement would likely prejudice" and
substituting by "unless the Governor
certifies that such compliance will
prejudice".

ClauseAmendment Proposed

9

(a) By adding -

"(5) The Council may, where it considers it appropriate, request an interim report from the Commissioner pertaining to those matters in subsection (1)(a), (b), (c) and (d); and where he has done so, it may advise the Commissioner in writing of those matters in subsection (2)(a), (b) and (c).".

10

(a) By deleting subclause (1) and substituting -

"(1) Where a complaint has been made against the police force, the Council or any one or more of its members or any person designated by a resolution of the Council, may interview any witness for the purposes of monitoring or reviewing the investigation of a complaint.".

(b) By deleting subclause (2) and substituting -

"(2) The interview may be conducted by the Council, one or more of its members or any person designated under subsection(1), who may decide whether any other person shall be present at the interview.".

(c) In subclause (4), by adding "or any person designated under subsection (1)" after "or members".

ClauseAmendment Proposed

11

(d) In subclause (5), by adding "or any person designated under subsection (1)" after "or members".

(a) In subclause (3), by deleting "might" and substituting "will".

(b) In subclause (4), by adding "without lawful excuse" before "fails".

(c) By adding -

"(4A) It shall be a defence for a member of the Council to prove that the disclosure was made in order to reveal -

(a) any unlawful activity, abuse of power, serious neglect of duty or other serious misconduct by the police force; or

(b) a serious threat to public order or to the security of Hong Kong or to the health or safety of the public.".

(d) By adding -

"(5) For the purpose of this section, member includes the Secretary, the Legal Adviser, any former member of the Council, any former Secretary of the Council, any former Legal Adviser of the Council and any person appointed, engaged or designated by the Council.".

ClauseAmendment Proposed

14

(a) In the heading, by deleting "**Governor**" and substituting "**the Council**".

(b) By deleting "The Governor" and substituting -

"The Council in consultation with the Governor".

(c) In paragraph (e), by adding -

", so long as any regulation made does not contravene the generality of those powers and functions given to the Council under this Ordinance" after "this Ordinance".

INDEPENDENT POLICE COMPLAINTS COUNCIL BILL

COMMITTEE STAGE

Amendment to be moved by Hon Zachary WONG Wai-yin

<u>Clause</u>	<u>Amendment Proposed</u>
6	<p>(a) By deleting the heading and substituting "Appointment of Secretary and Staff";</p> <p>(b) By adding -</p> <p style="padding-left: 40px;">"(3) The Council may, on such terms and conditions as it thinks fit, appoint such persons (including technical and professional persons) as it thinks fit to assist it in the performance of its functions and the exercise of its powers under this Ordinance."</p> <p style="padding-left: 40px;">(4) Subsection (3) shall come into operation on a day to be appointed by a resolution of the Legislative Council."</p>
8(1)(f)	<p>By adding after "complaint" -</p> <p style="padding-left: 40px;">"and, for the purpose of monitoring, engage such persons as the Council thinks fit to observe the manner in which a complaint is handled by the police force".</p>
10	<p>By adding -</p> <p style="padding-left: 40px;">"(8) statements made by a witness during an interview with the Council shall not be admissible as evidence against him in criminal proceedings in which the witness is a defendant."</p>

Annex IV

LONG-TERM PRISON SENTENCES REVIEW BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
2(d)	By deleting "by courts".
6	<p>(a) In subclause (2), by deleting "Of" and substituting "Subject to subsection (2A), of".</p> <p>(b) In subclause (2)(a), by deleting "Supreme" and substituting "High".</p> <p>(c) By adding -</p> <p style="padding-left: 40px;">"(2A) The Governor -</p> <p style="padding-left: 80px;">(a) must be of the opinion that not less than 1 of the members referred to in subsection (2) has expertise and experience in the rehabilitation of offenders; and</p> <p style="padding-left: 80px;">(b) where he is of that opinion in respect of any such member, must state that he is of that opinion in the appointment of the member."</p>
8	(a) By adding "primary" before "regard".

ClauseAmendment Proposed

- (b) In paragraph (a), by adding "in any case where the prisoner has not been completely rehabilitated," before "the rehabilitative".
- (c) In paragraph (b), by adding "(in any case where the prisoner has not been completely rehabilitated)" after "rehabilitation".
- (d) By adding -
 - "(ba) whether the part of the prisoner's sentence already served is sufficient, in all the circumstances (in particular given the nature of the offence for which the prisoner is being detained), to warrant consideration being given to having the prisoner released from detention early;"

11

By adding -

"(10) Where any right, privilege, obligation or liability has been acquired, accrued or incurred under the repealed rule, then this section shall, with all necessary modifications, apply to and in relation to any such right, privilege, obligation or liability, as the case may be, as if such right, privilege, obligation or liability, as the case may be, had been acquired, accrued or incurred under this section.

(11) In subsection (10), "repealed rule" (已廢除規則) means rule 69A of the Prison Rules (Cap. 234 sub. leg.) as in force at any time before the rule was repealed by this Ordinance."

<u>Clause</u>	<u>Amendment Proposed</u>
12	By deleting subclause (7).
13(2) and (6)	By deleting "7" and substituting "14".
14	<p>(a) By deleting subclause (1)(c) and (d) and substituting -</p> <p>"(c) the Registrar of the Supreme Court to provide -</p> <p>(i) in relation to the offence in respect of which the prisoner is serving the sentence, a copy of the summing up by the judge to the jury, or, in the event of a plea of guilty, a copy of the agreed statement of facts which is read into the court record, of any plea in mitigation, of any comments made by the judge at the sentencing as to the minimum term to be served, and of any other matters recorded by the judge for the purposes of any such review; and</p> <p>(ii) where the sentence is an indeterminate sentence, a copy of the report under section 67B of the Criminal Procedure Ordinance (Cap. 221) which relates to the prisoner or sentence; and".</p> <p>(b) By deleting subclause (2).</p>

ClauseAmendment Proposed

15

By adding -

"(4) The Board may renew a conditional release order (whether in the same terms or different terms) at any time before its expiry.

(5) Where pursuant to a licence under the repealed section a prisoner is released, then this section shall, with all necessary modifications, apply to and in relation to the licence and the prisoner as if -

- (a) the licence were a conditional release order;
- (b) the prisoner were the person to whom the order related; and
- (c) any conditions to which the licence was subject were conditions of the order,

and the other provisions of this Ordinance (including section 18) shall be construed accordingly.

(6) In this section, "repealed section" (已廢除條文) means section 70(3) of the Criminal Procedure Ordinance (Cap. 221) as in force immediately before the commencement of section 9 of the Crimes (Amendment) Ordinance 1993 (24 of 1993).".

21(1)

By adding "to" after "subject".

<u>Clause</u>	<u>Amendment Proposed</u>
23(3)	By adding "or a nolle prosequi is entered in respect of the charge" after "withdrawn" where it twice occurs.
27	By adding "(including for the purposes of any remission of sentence under the Prison Rules (Cap. 234 sub. leg.))" after "by the prisoner".
38	By adding - "(3) The Commissioner shall not delegate his function under subsection (1).".
43	(a) By deleting subclause (1). (b) In subclause (2) - (i) by deleting "In particular, regulations under this section may" and substituting "The Governor may, with the approval of the Legislative Council, make regulations to"; (ii) by adding - "(ea) empowering the Secretary for Security to specify a place (which may be a prison) where proceedings of the Board shall be conducted if the prisoner to which the proceedings relate is to attend the proceedings personally, whether pursuant to a right referred to in paragraph (e) or with the consent of the Board;";

ClauseAmendment Proposed

- (iii) in paragraph (h), by adding "or that is necessary for the better carrying out of the purposes of this Ordinance" after "Ordinance".

Schedule 1

- (a) In sections 2(1) and 3(2), by deleting "Supreme" and substituting "High".

- (b) In section 5 -

- (i) in subsection (3), by deleting the last sentence;

- (ii) by adding -

"(4) Without prejudice to the operation of subsection (1)(e), the Governor may remove a member from office at any time on the ground that he has been convicted in Hong Kong of an offence that is punishable by imprisonment or is convicted elsewhere than in Hong Kong of an offence that, if committed in Hong Kong, would be an offence so punishable."

- (c) By deleting section 12(3) and substituting -

"(3) For the avoidance of doubt, it is hereby declared that section 51 of the Interpretation and General Clauses Ordinance (Cap. 1) applies in relation to the Board."

<u>Clause</u>	<u>Amendment Proposed</u>
	<p>(d) In section 13(2) -</p> <p>(i) in paragraph (a), by deleting "7" and substituting "14";</p> <p>(ii) in paragraph (b), by deleting "place" and substituting ", subject to any regulations made under section 43(2) (ea) of this Ordinance, place (which, with the consent of the Commissioner, may be a prison)".</p> <p>(e) In section 13(6), by deleting "7" and substituting "14".</p> <p>(f) By deleting section 13(8).</p>
Schedule 2	<p>(a) In item 3, in proposed section 67B(1), by deleting "sentence of life imprisonment" and substituting "life sentence".</p> <p>(b) In item 3, in proposed section 67C -</p> <p>(i) in subsection (2) -</p> <p>(A) by adding ", after taking into account any representations made under subsection (3)," after "must";</p> <p>(B) by adding "and the recommendation should include any special considerations or circumstances to be taken into account in any future review" after "discretion";</p> <p>(ii) by deleting subsection (3) and substituting</p>

ClauseAmendment Proposed

"(3) Before making a recommendation under subsection (2), the Chief Justice must -

(a) give the prisoner an opportunity to make written representations to the Chief Justice for the Chief Justice to take into account in making the recommendation; and

(b) as far as it is practicable to do so, consult with the judge who presided at the trial of the relevant offence.";

(iii) in subsection (4), by deleting "subsection (3)" and substituting "subsection (2)".

(c) By adding -

"5. Prison Rules
(Cap. 234
sub. leg.)

Repeal rule
69A.".

LONG-TERM PRISON SENTENCES REVIEW BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
4	(a) In the definition of "discretionary life sentence" by deleting "非強制" and substituting "酌情". (b) In the definition of "無限期刑罰" - (i) in paragraph (a) by deleting "非強制" and substituting "酌情"; (ii) in paragraph (b) by deleting "等候".
8(a)	By deleting "刑期" and substituting "刑罰".
11(3) and (5) and 13(1)(a)	By deleting "非強制" and substituting "酌情".
12(6) and Schedule 1, section 13(7)	By deleting "聽取" and substituting "取納任何".
21(1) and (2)(b)	By deleting "已" and substituting "一直".

34(2) By deleting "項" and substituting "次的".

Annex V

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

Clause

Amendment Proposed

2(1) (a) By deleting the definition of "external serious offence" and substituting -

""external serious offence" (外地嚴重罪行) means an external offence the maximum penalty for which is death, or imprisonment for not less than 24 months;"

(b) By deleting the definition of "Hong Kong serious offence" and substituting -

""Hong Kong serious offence" (香港嚴重罪行) means a Hong Kong offence the maximum penalty for which is death, or imprisonment for not less than 24 months;"

(c) In the definition of "investigation", by deleting paragraph (a) and substituting -

"(a) into a Hong Kong offence or external offence; or"

(d) By adding -

""appropriate authority" (有關當局), in relation to a place outside Hong Kong, means a person whom the Attorney General is satisfied is a person who for

the time being may under the law of that place -

Clause

Amendment Proposed

- (a) in the case of a request by Hong Kong to that place for assistance in a criminal matter, receive such a request; or
- (b) in the case of a request by that place to Hong Kong for assistance in a criminal matter, make such a request;

"relevant auditor" (有關核數師) means a person appointed as an auditor for the purposes of any enactment;

"tax adviser" (稅務顧問) means a person appointed bona fide to give advice, in the course of his employment or of a business carried on by him, about the tax affairs of another person (whether appointed directly by that other person or another tax adviser of that other person);

"tax document" (稅務文件) -

- (a) in relation to a tax adviser, means a document which falls within Part 1 of Schedule 1A;
- (b) in relation to a relevant auditor, means a document which falls within Part 2 of Schedule 1A;".

"(3) It is hereby declared that the provisions of this Ordinance shall not operate to prejudice the generality of section 4 of the Inland Revenue Ordinance (Cap. 112).".

ClauseAmendment Proposed

- 4 (a) In subclause (1), by deleting "The Governor in Council may," and substituting "Subject to subsections (2) and (3), the Governor in Council may, with the approval of the Legislative Council,".

- (b) By deleting subclauses (2) to (7) and substituting -

"(2) The Governor in Council shall not make an order under subsection (1) unless the arrangements for mutual legal assistance are substantially in conformity with the provisions of this Ordinance.

(3) Where an order under subsection (1) specifies modifications referred to in that subsection, the modifications shall be summarized in a Schedule to the order.

(4) An order under subsection (1) may specify that it shall come into operation on a day -

(a) specified in the order; or

(b) to be appointed by the Secretary for Security by notice in the Gazette.".

- (c) By deleting subclauses (10) and (11) and substituting -

"(10) Section 35(b) of the Interpretation and General Clauses Ordinance (Cap. 1) shall apply to an order under subsection (1) as if for the words "amend the whole or any part" in that section there were substituted the words "repeal the whole".".

ClauseAmendment Proposed

5

(a) By adding -

"(1A) Where the criminal matter to which a request by a place outside Hong Kong for assistance under this Ordinance relates is an investigation into an external offence relating to taxation, then the request shall be refused -

- (a) if the place is not a prescribed place; or
- (b) unless the Attorney General is supplied with information that satisfies him that the primary purpose of the request is not the assessment or collection of tax."

(b) By adding -

"(3) Without prejudice to the generality of subsection (2)(a), a request by a place outside Hong Kong for assistance under this Ordinance shall be refused if -

- (a) the place is not a prescribed place; and
- (b) the appropriate authority of the place fails to give an undertaking to the Attorney General which satisfies the Attorney General that the place will, subject to its law, comply with a future request by Hong Kong to the place for assistance in a criminal

matter."

Clause

Amendment Proposed

- 8(2)
- (a) In paragraph (b), by adding "(in particular, details of the external offence to which the criminal matter relates)" after "matter".
 - (b) In paragraph (g), by deleting "and" at the end.
 - (c) By deleting everything after and including paragraph (h) and substituting -
 - "(h) a statement setting out the maximum penalty for the external offence to which the criminal matter relates; and
 - (i) any other information that may assist in giving effect to the request."
- 9
- (a) In subclause (2) -
 - (i) in paragraph (a), by deleting "and";
 - (ii) in paragraph (b), by deleting "letter," and substituting "letter; and";
 - (iii) by adding -
 - "(c) any references in those provisions to criminal proceedings were references to -
 - (i) where the criminal matter concerned is an investigation to which paragraph (a) of the definition of "investigation" is applicable, a prosecution

<u>Clause</u>	<u>Amendment Proposed</u>
	arising out of the investigation;
	(ii) where the criminal matter concerned is an investigation to which paragraph (b) of the definition of "investigation" is applicable, the ancillary criminal matter to which the investigation relates;
	(iii) where the criminal matter concerned is an ancillary criminal matter, the ancillary criminal matter,".
	(b) By deleting subclause (3).
10	(a) In subclause (1), by adding ", subject to subsection (13)," after "the evidence or".
	(b) By adding -
	(2A) A proceeding under subsection (2) shall be held in open court except where -
	(a) the magistrate is satisfied that it is necessary for the proceeding to be held in camera in order to comply with any prescribed arrangements relating to the proceeding;
	(b) the magistrate exercises a power pursuant to the provisions of any other Ordinance

whereby he may hold the proceeding in camera; or

Clause

Amendment Proposed

(c) the criminal matter outside Hong Kong to which the proceeding relates is an investigation and the magistrate is satisfied that there are reasonable grounds for believing that -

(i) it is in the interest of the person required to give evidence, or produce a thing, for the purposes of that matter that the proceeding be held in camera; or

(ii) that matter would be substantially prejudiced if the proceeding were held in open court."

(c) In subclause (7), by deleting "foreign" and substituting "external".

(d) By deleting subclause (9) and substituting -

"(9) For the purposes of this section, a person who is required to give evidence, or produce a thing, for the purposes of a criminal matter in a place outside Hong Kong, is not compellable to give evidence, or produce a thing, that the person could not be compelled to give or produce, as the case may be, in Hong Kong -

(a) if that matter were a trial of a person for a Hong Kong offence or proceedings to determine whether a person should be tried for such an offence; or

Clause

(b) without prejudice to the generality of paragraph (a) -

Amendment Proposed

(i) on the ground that to do so might tend to incriminate him; and

(ii) if -

(A) the provisions of any Ordinance which qualify a person's right not to incriminate himself had never been enacted; and

(B) that matter were a trial of a person for a Hong Kong offence or proceedings to determine whether a person should be tried for such an offence.

(10) Without prejudice to the generality of subsection (9), for the purposes of this section, a tax adviser or relevant auditor who is required to give evidence, or produce a thing, for the purposes of a criminal matter in a place outside Hong Kong which is an investigation into an external offence relating to taxation, is not compellable to give evidence, or produce a thing, to the extent that the evidence or thing, as the case may be, relates to, or is, a tax document which -

(a) is the property of that tax adviser or relevant auditor, as the case may be; and

(b) in the case of a tax adviser, originates from him, or from his client or another tax

adviser of the client, for or in connection with the giving or obtaining of advice about the tax affairs of the client.

Clause

Amendment Proposed

(11) For the purposes of this section, and without prejudice to the operation of subsection (5), (6), (8), (9) or (10), a person who is required to give evidence, or produce a thing, for the purposes of a criminal matter in a place outside Hong Kong, shall not be required -

- (a) to state what things relevant to that matter are or have been in his possession or control; or
- (b) to produce any things other than particular things specified by the magistrate conducting the proceedings concerned under subsection (2), or things belonging to a particular class of things specified by that magistrate, as being things, or a class of things, as the case may be, appearing to that magistrate to be, or to be likely to be, in his possession or control.

(12) It is hereby declared that evidence taken for the purposes of this section shall not be admissible in evidence, or otherwise used, for the purposes of any criminal matter, civil proceedings, disciplinary proceedings, or other proceedings, in Hong Kong except any prosecution of the person who gave that evidence for the offence of perjury, or contempt of court, in respect of that evidence.

(13) The Attorney General shall not authorize under subsection (1) the transmission of the original of a thing to a place outside Hong Kong unless -

- (a) the appropriate authority of the place has, not more than 1 month after the thing was produced, given the Attorney General a notice in writing setting out the grounds on

which the original of the thing is required for the purposes of the criminal matter concerned in that place; and

Clause

Amendment Proposed

- (b) in any case where the Attorney General is of the opinion, after considering all the circumstances, that the original of the thing should be returned to Hong Kong upon the conclusion of the proceedings relating to that criminal matter, the appropriate authority has given an unqualified undertaking to the Attorney General that the original of the thing will be so returned."

- 12 (a) In subclause (8), by adding ", subject to subsection (10A)," after "include".

- (b) By deleting subclause (9) and substituting -

"(9) An authorized officer who executes a search warrant issued under this section shall, as soon as practicable after the execution of the warrant, give to the person, or give to the owner or occupier of the land or premises or leave in a prominent position on the land or at the premises, as the case requires -

- (a) a notice setting out -

(i) the name and rank of the authorized officer;

(ii) the name of the magistrate who issued the warrant and the day on which it was issued; and

(iii) a description of any thing seized and removed in

accordance with the
warrant; and

Clause

Amendment Proposed

- (b) in the case of any such thing which is a document, a copy of the document if that person, owner or occupier, as the case may be, so requests."

- (c) By adding -

"(10A) The Attorney General shall not give a direction under subsection (8) that the original of a thing be sent to the appropriate authority of a place outside Hong Kong unless -

- (a) the appropriate authority of the place has, not more than 1 month after the thing was seized, given the Attorney General a notice in writing setting out the grounds on which the original of the thing is required for the purposes of the criminal matter concerned in that place; and
- (b) in any case where the Attorney General is of the opinion, after considering all the circumstances, that the original of the thing should be returned to Hong Kong upon the conclusion of the proceedings relating to that criminal matter, the appropriate authority has

given an unqualified undertaking to the Attorney General that the original of the thing will be so returned."

ClauseAmendment Proposed

(d) By adding -

"(12) For the purposes of this section, in the case of a criminal matter in a place outside Hong Kong which is an investigation into an external offence relating to taxation, "thing" does not include a tax document which -

- (a) is the property of a tax adviser or relevant auditor; and
- (b) in the case of a tax adviser, originates from him, or from his client or another tax adviser of the client, for or in connection with the giving or obtaining of advice about the tax affairs of the client."

15

(a) In subclause (5) -

- (i) in paragraph (b), by deleting "given." and substituting "given; and";
- (ii) by adding -

"(c) in the case of an order proposed to be made under subsection (2)(a)(i) (A) or (b)(i) (A), the Attorney General has advised that -

- (i) the appropriate authority of the place outside Hong Kong concerned has given him a notice in writing setting out the

grounds on which the original of the material is required for the purposes of the criminal matter; and

Clause

Amendment Proposed

(ii) either -

(A) because he is of the opinion, after considering all the circumstances, that the original of the material should be returned to Hong Kong upon the conclusion of the proceedings relating to the criminal matter, he has sought and received from the appropriate authority an unqualified undertaking that the original of the material will be so returned; or

(B) he is not of that opinion."

(b) In subclause (9) -

(i) by adding -

"(aa) where -

(i) the person to which the

order relates is a tax adviser or relevant auditor; and

Clause

Amendment Proposed

- (ii) the criminal matter to which the order relates is an investigation into an external offence relating to taxation,

shall not confer any right to production of, or access to, items which are tax documents and -

- (A) the property of the tax adviser or relevant auditor, as the case may be; and

- (B) in the case of a tax adviser, originate from him, or from his client or another tax adviser of the client, for or in connection with the giving or obtaining of advice about the tax affairs of the client;;

- (ii) in paragraph (b) -

- (A) by adding "subject to section 3(3)," before "shall";

- (B) by adding "if the Attorney General is satisfied that it is in the public interest of Hong Kong that it have such effect" after

"otherwise";

- (iii) in paragraph (c), by adding "if the Attorney General is satisfied that it is in the public interest of Hong Kong that it may be so made" after "body".

Clause

Amendment Proposed

- 17(2) By deleting "foreign" and substituting "external".
- 19(i) By deleting everything after "than" and substituting "an offence under section 36 of the Crimes Ordinance (Cap. 200);".
- 23(1)(d) By deleting subparagraphs (i) and (ii) and substituting -
- "(i) that place has given adequate (whether or not unqualified) undertakings in respect of the matters referred to in subsection (2); and
- (ii) the prisoner or other person has been given a copy of those undertakings and has subsequently consented to giving such assistance in that place,".
- 35 By deleting the clause and substituting -

"35. Amendment of Schedules

(1) The Legislative Council may, by resolution, amend Schedule 1A.

(2) The Governor in Council may, by notice in the Gazette, amend Schedule 1."

New

By adding after clause 36 -

'SCHEDULE 1A [ss. 2(1) & 35]
TAX DOCUMENTS

Clause

Amendment Proposed

PART 1
TAX DOCUMENTS OF TAX ADVISERS

Any document which is a communication between a tax adviser and -

- (a) a person ("client") in relation to whose tax affairs he has been appointed as a tax adviser; or
- (b) any other tax adviser of the client, the purpose of which is the giving or obtaining of advice about any of those tax affairs, but excluding any information giving the identity or address of the client or of any tax adviser.

PART 2
TAX DOCUMENTS OF RELEVANT AUDITORS

Any document relating to tax which was created by or on behalf of a relevant auditor for or in connection with the performance of his functions under any enactment."

Schedule 1 (a) In section 10, by adding -

"(9) Where an application under subsection (8) of the relevant section has not been determined before the relevant day, then this section shall, with all necessary modifications, apply to and in relation to the application as if the application were an application

under subsection (7), and the other provisions of this Ordinance shall be construed accordingly.

Clause

Amendment Proposed

(10) In this section -

"relevant day" (有關日期) means the day on which section 14 of Schedule 2 comes into operation;

"relevant Order" (有關命令) means the Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) Order (Cap. 405 sub. leg.) as in force immediately before the relevant day;

"relevant section" (有關條文) means section 13 of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) as applied under paragraph 3(2) of the relevant Order."

(b) Section 12 is amended by adding -

"(7) After the relevant day -

(a) subsection (2)(b) shall be read as if "30(3)" were omitted and "30A(9)" were substituted therefor;

(b) subsection (6)(a)(i) shall be read as if "31, 47 or 49" were omitted and "49 or 50" were substituted therefor.

(8) In this section, "relevant day" (有關日期) means the day on which section 87 of the Bankruptcy (Amendment) Ordinance 1996 (76 of 1996)

comes into operation."

Clause

Amendment Proposed

Schedule 2 (a) By adding -

"Evidence Ordinance

**4A. Issue of letter of request to obtain
evidence in criminal proceedings**

Section 77E of the Evidence Ordinance (Cap. 8) is amended by adding -

"(6) A letter of request may be issued under this section in respect of an investigation or ancillary criminal matter as if the investigation or ancillary criminal matter, as the case may be, were criminal proceedings referred to in subsection (1)(a) and, in such a case, the provisions of sections 77F and 77G shall, with all necessary modifications, operate in relation to any such request as if any references in those provisions to criminal proceedings were references to -

- (a) where paragraph (a) of the definition of "investigation" is applicable, a prosecution arising out of the investigation to which the request relates;
- (b) where paragraph (b) of the definition of "investigation" is applicable, the ancillary criminal matter to which the request relates;
- (c) in the case of an ancillary criminal

matter, the ancillary criminal matter,

and the other provisions of this Ordinance, or of any other Ordinance, which relates, whether directly or indirectly, to the provisions of this Part shall be construed accordingly.

Clause

Amendment Proposed

(7) In subsection (6) -

""ancillary criminal matter" (附帶刑事事宜) means ancillary criminal matter within the meaning of section 2 the Mutual Legal Assistance in Criminal Matters Ordinance (of 1997);

"investigation" (偵查) means an investigation -

(a) into an offence against a law of Hong Kong; or

(b) for the purposes of an ancillary criminal matter."."

(b) In section 12 -

(i) in paragraph (b), by deleting "accordingly"."." and substituting "accordingly".";"

(ii) by adding -

"(c) by repealing paragraph 15 and substituting -

"15. In section 16 -

(a) in subsection (2)(b), for "30(3)" there shall be substituted "30A(9)";

- (b) for subsection (6) there shall be substituted -

ClauseAmendment Proposed

"(6) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by this Ordinance -

- (a) a court shall not make an order under -

(i) section 49 or 50 of the Bankruptcy Ordinance (Cap. 6); or

(ii) section 60 of the Conveyancing and Property Ordinance (Cap. 219),

in respect of the making of the gift at any time when property of the person to

whom the
gift was
made is
subject to a
restraint
order or
charging
order; and

ClauseAmendment Proposed

(b) any order
made under
any of those
sections after
the discharge
of the
restraint
order or
charging
order shall
take into
account any
realisation
under this
Ordinance of
property held
by the person
to whom the
gift was
made."."."

(c) In section 13 -

(i) in paragraph (b), by deleting "accordingly." and substituting "accordingly.";

(ii) by adding -

"(c) in section 16 -

(i) in subsection (2)(b), by repealing "30(3)" and substituting "30A(9)";

(ii) in subsection (6)(a)(i), by repealing "31, 47 or 49" and substituting "49 or 50".

Clause

Amendment Proposed

(d) By adding -

"Protection of Trading Interests Ordinance

17. Exclusion of part of the Evidence Ordinance, etc.

Section 6 of the Protection of Trading Interests Ordinance (Cap. 471) is amended -

(a) by adding -

"(1A) A magistrate shall not for the purposes of section 10 of the Mutual Legal Assistance in Criminal Matters Ordinance (of 1997) give effect to a request referred to in that section if it appears to the magistrate that the request infringes the jurisdiction of Hong Kong or territorial jurisdiction in Hong Kong.";

(b) in subsection (2), by adding "or (1A)" after "subsection (1)".

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for SecurityClauseAmendment Proposed

- 10(6) By adding "或交出物件" after "作證".
- 14 (2) (b) (a) By deleting "複印該物料" and substituting "製作該物料的
(i) (B) 複製品";
and (ii)
- (b) By deleting "複印本" and substituting "複製品".
- 15(2) (a) (a) By deleting "複印該物料" and substituting "製作該物料的
(i) (B) 複製品";
and (ii)
and (b) (b) By deleting "複印本" and substituting "複製品".
(i) (B)
and (ii)
- Schedule (a) In the Chinese text, by deleting section 1 and substituting -
2
- "1. 准許在本司法管轄權範圍外
送達令狀的主要情況
- 《最高法院規則》(第4章, 附屬法例)現予修訂,
在第11號命令中, 在第1(1)條規則中, 加入 —
- "(oa) 申索是根據《刑事事宜相互法律協助條例》(1997年第 號)提出的;"。
- ".

ClauseAmendment Proposed

- (b) In the Chinese text, by deleting section 2 and substituting -

"2. 進行訊問的人及訊問的方式

第 70 號命令第 4 條規則現予修訂，加入 —

“(3) 依據本命令作出的任何訊問證人命令，須准許符合以下條件的人盤問該證人 —

(a) 獲訊問員批准進行盤問的人；並且

(b) 是受上述訊問影響的人或是該人的法律代表。”。

- (c) In the Chinese text, by deleting the heading of section 3 and substituting "《販毒（追討得益）條例》（第 405 章）”。

- (d) In section 4, by deleting everything after "加入" — and substituting -

“第 115A 號命令
（香港）《刑事事宜相互法律協助條例》
（1997 年第 號）

1. 釋義（第 115A 號命令第 1 條規則）

(1) 在本命令中，“條例” (the Ordinance) 指《刑事事宜相互法律協助條例》（1997 年第 號），而在第 3 至 12 條規則中以數目提述的某條，指條例中以該數目編排的該條；而在第 13 至 18 條規則中以數目提述的某條，指條例的附表 1 中以該數目編排的該條。

ClauseAmendment Proposed

(2) 本命令中所用詞句，如亦用於條例中（包括條例的附表 1），其在本命令中所具涵義與條例中所具者相同。

2. 法律程序的分派（第 115A 號命令第 2 條規則）

除第 3 條規則另有規定外，法院根據條例具有的司法管轄權，須由法院的大法官在內庭行使。

3. 根據第 28 條行使權力（第 115A 號命令第 3 條規則）

第 28 條所賦予法院的權力，可由在內庭的大法官及由聆案官行使。

4. 申請登記（第 115A 號命令第 4 條規則）

要求根據第 28(1)條登記外地沒收令的申請，可單方面提出。

5. 支持根據第 28(1)條提出申請的證據（第 115A 號命令第 5 條規則）

申請登記外地沒收令，必須由誓章支持，誓章須—

- (a) 附有命令或其經核實或核證或以其他方式妥為認證的文本作為證物，如命令並非以英文寫成，亦須附有命令的經公證人核證或經誓章認證的英文譯文；及

ClauseAmendment Proposed

(b) 述明 —

- (i) 命令是有效而又不受上訴規限的；
- (ii) (凡命令所針對的人或命令是就其財產作出的人並無在法律程序中出席) 該人已按照香港以外有關地方的法律接獲關於法律程序的通知書，並有充分時間就其抗辯；
- (iii) (如屬金錢的情況) 在申請的日期根據命令須予支付的款項仍未支付或述明尚未支付的款額，視乎何者適用而定，或如屬其他財產的情況，述明尚未討回的財產；及
- (iv) 盡宣誓人所知，命令所針對的人或命令是就其財產作出的人在香港所持有或從香港控制的財產的詳情，並說明宣誓人所知之事的來源。

6. 命令的登記冊 (第 115A 號命令第 6 條規則)

(1) 司法常務官須就根據條例登記的命令備存一份登記冊。

(2) 登記冊中須包括一項登記的任何更改或作廢的詳情，或一項已登記的命令的任何更改、圓滿執行或撤銷的詳情，以及就該等命令發出執执行程序文

件的詳情。

Clause

Amendment Proposed

7. 登記通知書（第 115A 號命令第 7 條規則）

（1） 命令的登記通知書必須送達命令所針對的人或是就其財產而取得的人，送達方式是將通知書當面交付該人，或按該人的通常或最後為人所知的地址或營業地點送交該人，或以法庭所指示的其他方式送交該人。

（2） 在本司法管轄權範圍外送達該通知書，是無需許可而容許的，而第 11 號命令第 5、6 及 8 條規則適用於該通知書，一如其適用於令狀。

（3） 通知書須述明可申請將登記更改或作廢的期限，並須述明命令在該段期限屆滿之前不會予以強制執行。

8. 申請將登記更改或作廢（第 115A 號命令第 8 條規則）

命令所針對的人要求將命令的登記更改或作廢的申請，必須藉由誓章支持的傳票向大法官提出。

9. 命令的強制執行（第 115A 號命令第 9 條規則）

（1） 已根據條例登記的命令不得強制執行，直至按照第 7(3)條規則而指明的期限屆滿為止，或如法庭已將該期限延展，則為直至該經如此延展的期限屆滿為止。

（2） 如有申請根據第 8 條規則提出，命令不得強制執行，直至申請已有裁定為止。

ClauseAmendment Proposed

10. 已登記的命令的更改、圓滿執行及撤銷(第 115A 號命令第 10 條規則)

法庭一經接獲要求登記的申請人通知，知悉一項已登記的命令已被更改、獲圓滿執行或被撤銷，該更改、圓滿執行或撤銷的詳情（視屬何情況而定）即須記入登記冊。

11. 除命令另有規定外，規則具有效力（第 115A 號命令第 11 條規則）

除根據第 27 條作出的任何命令的條文另有規定外，第 3 至 10 條規則具有效力。

12. 關於刑事事宜的偵查或法律程序 — 命令的撤銷及更改（第 115A 號命令第 12 條規則）

(1) 獲授權人員須以經宣誓提出的告發單方面向大法官提出申請，要求根據第 15 條作出命令。

(2) 凡已有命令根據第 15 條作出，被規定須遵從命令的人可以書面向法院的適當人員申請撤銷或更改命令，而法庭在聆訊申請時，可撤銷命令或對命令作出其認為適合的更改。

(3) 除第(4)款另有規定外，凡任何人擬根據第(2)款申請撤銷或更改命令，該人須在提出申請前 48 小時之前，將申請書的文本一份連同示明將會提出該要求撤銷或更改的申請的時間及地點的通知書，交給申請作出命令的獲授權人員，或如不知該人是誰或不能尋獲該人則交給另一名獲授權人員。

(4) 法庭如信納提出申請的人有好的理由尋

求盡快撤銷或更改命令而遵從第(3)款並不切實可行，可指示不需要遵從該款。

Clause

Amendment Proposed

13. 要求作出限制令或押記令的申請(第 115A 號命令第 13 條規則)

(1) 要求根據第 7 條作出限制令或要求根據第 8 條作出押記令的申請(該兩申請任何之一均可與要求委任接管人的申請合併)，可由律政司單方面藉原訴動議提出。

(2) 根據第 7(4)或 8(3)條提出的申請須申誓章支持，誓章須 —

(a) 述明(在適用情況下)相信以下事宜的理由：外地沒收令可能會在香港以外有關地方已提起的或將會提起的法律程序中作出；

(b) 盡宣誓人所能，提供尋求就之作出命令的可變現財產的詳情，並指明持有該財產的人；

(c) 在第 6(2)條適用的情況下，示明擬在香港以外有關地方提起法律程序的時間。

(3) 根據第(1)款提出的原訴動議，須以有關被告人(將他指名)事宜及有關條例事宜為標題，而在有關事宜中的所有後來文件均須如此標題。

(4) 除非法庭另有指示，否則第(2)款所指的誓章可包括關於資料或所信之事的陳述以及資料或所信之事的來源和理由。

ClauseAmendment Proposed

14. 限制令及押記令(第 115A 號命令第 14 條規則)

(1) 限制令可在施加條件及受例外情況規限之下作出，包括但不限於關於彌償第三方因遵從該命令而招致的開支的條件以及關於被告人的合理生活開支及合理法律開支的例外情況，但不得要求律政司作出承諾遵守任何就被告人因限制令所蒙受的損害而作出的命令。

(2) 除非法庭另有指示，否則單方面作出的限制令具有效力，直至經編定的聆訊各方之間的申請之日為止，而押記令須是着令提出反對因由的命令，並施加押記直至該日為止。

(3) 凡有限制令作出，律政司須向被告及所有其他被指名受限制令限制的人，送達限制令的文本及用以支持的誓章的文本，並須將限制令的條款通知所有其他受限制令影響的人或團體。

(4) 凡有押記令作出，律政司須(除非法庭另有指示)向被告送達押記令的文本及用以支持的誓章的文本，如押記令所關乎的財產是由另一人持有，則亦須向該人送達該等文本；並須視乎適當情況，向第 50 號命令第 2(1)(b)至(d)條規則中指明的人或團體送達押記令的文本。

15. 命令的撤銷或更改(第 115A 號命令第 15 條規則)

(1) 任何獲送達限制令或押記令的人或任何獲通知有該命令作出的團體，均可藉傳票申請撤銷或更改該命令。

(2) 傳票及任何用以支持的誓章，須在傳票的

編定聆訊日期前 2 整天或之前，遞交法院及送達律政司，如律政司並非申請人，則亦須送達被告人。

Clause

Amendment Proposed

(3) 法庭一經接獲通知法律程序已結束，任何限制令或押記令即須予撤銷。

16. 律政司的進一步申請(第 115A 號命令第 16 條規則)

(1) 凡已有限制令或押記令作出，律政司可藉傳票或(如事態緊急)單方面申請 —

(a) 撤銷或更改該命令；

(b) 就其他可變現的財產作出限制令或押記令；或

(c) 委任接管人。

(2) 根據第(1)款提出的申請須由誓章支持，而如申請是要求作出限制令或押記令，誓章須盡宣誓人所能，提供尋求就之作出該令的可變現財產的全部詳情，並指明持有該財產的人。

(3) 傳票及用以支持的誓章，須在傳票的編定聆訊日期前 2 整天或之前，遞交法院及送達被告人，如在有關事宜中已有委任接管人，則亦須送達接管人。

(4) 第 14(3)及(4)條規則適用於將已根據本條規則分別作出的限制令及押記令對被告以外的人所作的送達。

17. 財產的變現(第 115A 號命令第 17 條規則)

(1) 根據第 9 條提出的申請，如已有法律程序在高等法院針對被告人進行，須由律政司藉傳票提出，否則須藉原訴動議提出。

Clause

Amendment Proposed

(2) 傳票或原訴動議(視屬何情況而定)須連同用以支持的證據，在傳票的編定聆訊日期前 7 天或之前，送達 —

(a) 被告人；

(b) 任何持有申請所關乎的可變現財產的任何權益的人；及

(c) 接管人(凡在有關事宜中有委任接管人)。

(3) 申請須由誓章支持，而誓章須盡宣誓人所能，提供申請所關乎的可變現財產的全部詳情，並指明持有該財產的人。

(4) 法庭可應根據第 9 條提出的申請行使第 10(1)條所賦予的權力，指示由接管人作出付款。

18. 接管人(第 115A 號命令第 18 條規則)

(1) 凡有接管人依據押記令或根據第 7 或 9 條獲委任，除本條規則另有規定外，第 30 號命令第 2 至 8 條規則的條文須得適用。

(2) 凡所建議委任的接管人已在根據條例進行的其他法律程序中被委任為接管人，則除法庭另有命令，否則不需要宣誓作出關於其適當與否的誓章，亦不需要接管人提供保證。

(3) 凡接管人已全數支付根據外地沒收令須予支付的款項而仍有任何款項剩餘在其手中，接管人須藉傳票申請就該等款項的分發作出指示。

ClauseAmendment Proposed

(4) 根據第(3)款發出的傳票須在傳票的編定聆訊日期前 7 天或之前，連同任何用以支持的證據送達 —

(a) 被告人；及

(b) 持有的財產已由接管人變現的任何其他人。”。"".

Annex VI

IMMIGRATION (AMENDMENT) BILL 1997

COMMITTEE STAGEAmendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By deleting "1 April" and substituting "30 June".
23	In the proposed Schedule 3, in paragraphs 2 and 3, by deleting "1 April 1997" wherever it appears and substituting "the commencement date of the Immigration (Amendment) Ordinance 1997 (of 1997)".

IMMIGRATION (AMENDMENT) BILL 1997

COMMITTEE STAGEAmendments to be moved by the Hon James TO Kun-sunClauseAmendment Proposed

1(2)

By deleting "1 April 1997." and substituting " a day to be appointed by a resolution of the Legislative Council."

Annex VII

CRIMES AMENDMENT (NO. 2) BILL 1996

COMMITTEE STAGE

Amendments to be moved by the Hon James TO Kun-sun

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>By deleting the clause and substituting -</p> <p>"2. Treason</p> <p>Section 2 of the Crimes Ordinance (Cap. 200) is amended -</p> <p>(a) in subsection (1) by deleting paragraphs (a), (b), (c) and (f);</p> <p>(b) in subsection (1)(d), by deleting everything after "United Kingdom", and substituting -</p> <p style="padding-left: 40px;">"or part of its territory with the intention of causing an invasion, and where it is likely to cause an invasion;"</p> <p>(c) in subsection (1)(e) by deleting everything after "assists", and substituting -</p> <p style="padding-left: 40px;">"any public enemy at war with the United Kingdom ; or".</p>
3	<p>By deleting the clause and substituting -</p> <p>"3. Treasonable offences</p> <p>Section 3 is repealed and the following substituted -</p>

ClauseAmendment Proposed**"3. Treasonable offences**

(1) Any person who, with the intention of overthrowing the Government of the United Kingdom, overthrow the Government of the United Kingdom and where the act is likely to cause the same, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

(2) Any person who, with the intention of taking permanent control of any part of the territory of Hong Kong, uses force or violence to take such control by supplanting the lawful authority of the Government of the United Kingdom, where the act is likely to succeed such control, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

(3) Any person who -

- (a) attempts to commit an offence under subsections (1) or (2); or
- (b) conspires with any other person to commit an offence under subsections (1) or (2),

ClauseAmendment Proposed

shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

(4) No person shall be convicted of an offence under subsections (1), (2) or (3)(a) unless it is proved that the acts were committed in a manner which involved the activities of 2 or more persons associated together solely or partly for the purposes of commission; and where the acts involved substantial planning and organisation."."

CRIMES (AMENDMENT) (NO. 2) BILL 1996

COMMITTEE STAGEAmendments to be moved by Hon Albert HO Chun-yan

<u>Clause</u>	<u>Amendment Proposed</u>
3	By deleting the clause and substituting - "3. Treasonable offences Section 3 is repealed."
4	By deleting the clause and substituting - "4. Assaults on the Queen Section 5 is repealed."
New	By adding - "4A. Limitations as to trial for treason, etc. Section 4(1) is amended by repealing "or 3".
5	By deleting the clause.
7	(a) By adding - " (aa) in subsection (1) by repealing "A seditious intention" and substituting "Subject to subsection (3), a seditious intention",

ClauseAmendment Proposed

(b) By deleting paragraphs (c) and (d) and substituting -

"(c) by repealing subsection (2) and substituting -

"(2) An act, speech or publication is not seditious if it intends -

(a) to show that the Government of the United Kingdom or the Government of Hong Kong is mistaken in any of its policies or actions; or

(b) to point out errors or defects in the government or constitution of Hong Kong as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or

(c) to persuade Hong Kong residents to attempt to procure by lawful means the alteration of any matter in Hong Kong as by law established; or

(d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of the population of Hong Kong.",

(c) By adding -

"(d) by adding -

ClauseAmendment Proposed

"(3) Without affecting the generality of subsection (1), an intention referred to in paragraph (b) or (d) of that subsection is not established unless the purpose for exciting Hong Kong residents or raising discontent or disaffection amongst Hong Kong residents is to disturb the lawful functioning of a constituted authority in Hong Kong.

(4) In this section, " constituted authority (組成的權力機關) means the Government of United Kingdom or the Government of Hong Kong as represented by a person or body holding public office or discharging some public function of the respective governments he or it represents and, in relation to the purpose to disturb within the meaning of subsection (3), at the time of the alleged offence, was acting in that representative capacity."."

8

By deleting the clause and substituting -

"8 Offences

Section 10 is amended -

(a) in subsection (1) by repealing "Any person who" and substituting "Subject to subsection (4A), any person who, with intention to cause violence";

ClauseAmendment Proposed

(b) by adding -

"(4A) A person has the intention to cause violence if, at the time of the alleged offence, his intention was only to incite any other person to violence, the occurrence of which was likely or imminent and there was a direct and immediate connection between the acts referred to in subsection (1) and such occurrence or likelihood of occurrence."."

CRIMES (AMENDMENT) (NO. 2) BILL 1996

COMMITTEE STAGEAmendments to be moved by Hon Emily LAUClauseAmendment Proposed

7

By deleting the clause and substituting -

"7. Seditious intention

Section 9 is repealed."

8

By deleting the clause and substituting -

"8. Offences

Section 10 is repealed."

9

By deleting the clause and substituting -

"9. Legal Proceedings

Section 11 is amended -

(a) by repealing subsection (1); and

(b) in subsection (2) by repealing "section 10" and substituting "Part I or this Part ".

ClauseAmendment Proposed

12

By deleting this clause and substituting -

"12. Power to remove seditious publications

Section 14 is repealed.".