

立法會
Legislative Council

LC Paper No. CB(2)1138/01-02
(These minutes have been seen
by the Administration)

Ref : CB2/BC/3/00

**Bills Committee on
Drug Trafficking and Organized Crimes (Amendment) Bill 2000**

**Minutes of seventh meeting
held on Tuesday, 15 January 2002 at 2:30 pm
in Conference Room B of the Legislative Council Building**

- Members Present** : Hon James TO Kun-sun (Chairman)
Hon Eric LI Ka-cheung, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Abraham SHEK Lai-him, JP
Hon IP Kwok-him, JP
- Members Absent** : Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Bernard CHAN
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Henry WU King-cheong, BBS
Hon WONG Sing-chi
- Public Officers Attending** : Mrs Clarie LO, JP
Commissioner for Narcotics
- Ms Mimi LEE
Principal Assistant Secretary for Security (Narcotics)
- Mr Kelvin LEE
Acting Senior Government Counsel
Department of Justice

Action

Mr John WONG
Senior Government Counsel
Department of Justice

Mr SIN Kam-wah
Acting Chief Superintendent, Narcotics Bureau
Hong Kong Police Force

Mr CHENG Yiu-mo
Chief Inspector of Police, Narcotics Bureau
Hong Kong Police Force

Mr Stephen Barry TARRANT
Superintendent, Organized Crime and Triad Bureau
Hong Kong Police Force

Ms Diana WONG
Group Head (Financial Investigation)
Customs and Excise Department

Clerk in Attendance : Miss Flora TAI
Chief Assistant Secretary (2)2

Staff in Attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Miss Irene MAN
Senior Assistant Secretary (2)7

Action

I. Confirmation of minutes

[LC Paper No. CB(2)862/01-02]

The minutes of the meeting held on 3 January 2002 were confirmed.

II. Meeting with the Administration

[LC Paper Nos. CB(2)744/00-01(01) and 857/01-02(01)]

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

Action

3. The Committee requested the Administration to provide a written response on the following -

Cases in which restraint orders and charging orders may be made

- (a) to explain how the property of a suspect can be restrained under section 14C of the Prevention of Bribery Ordinance and the mechanism to seek compensation if the person under investigation is subsequently acquitted or not charged;
- (b) to illustrate with real cases why it was not desirable to restrain the property of a person under investigation by means of a holding charge;
- (c) to provide the number of cases in the past three years in which-
 - (i) charge was not brought against the arrested person but restraint order would have been applied under the proposed amendment;
 - (ii) charge was brought and restraint order was applied but the defendant was eventually acquitted; and
 - (iii) the time gap between arrest and bringing of charge in (ii);
- (d) to illustrate by case examples the different thresholds (in terms of the requirements in law and in operation) to be applied to making of arrests and bringing of charges, and explaining how the proposal could address the problems;
- (e) to tighten up the proposed provision or the procedural requirements by raising the threshold for invoking the power to restrain the property of a person who had been arrested and released on bail;
- (f) to confirm as a matter of legal policy whether a third party should be entitled to seek compensation through civil proceedings if he suffered as a result of a restraint order on the property of a person who had been arrested and released on bail; if yes, to advise on the standard of proof and contemplate the risk;

Confiscation orders

- (g) to illustrate with practical examples explaining the difficulties to fulfil the requirement of notifying an absconded defendant under current section 3(2)(c)(ii)(B) of Cap.405 and current section 8(3)(c)(i)(B)(II) of Cap.455 and explaining the need to amend the legislation as proposed; and

Action

(h) to update the description of section 25(1) of Cap.405 and Cap.455 in paragraphs 15 and 16 of Schedule 1 to Cap.455.

4. The Committee decided to continue discussion with the Administration on proposals in respect of provisions other than sections 25 and 25A at the following meetings -

(a) Friday, 22 February 2002 at 4:30pm; and

(b) Wednesday, 27 February 2002 at 8:30am.

III. Any other business

5. There being no other business, the meeting ended at 4:30 p.m.

Council Business Division 2
Legislative Council Secretariat
20 February 2002

Annex

**Proceedings of the meeting of the Bills Committee on
Drug Trafficking and Organized Crimes (Amendment) Bill 2000
on Tuesday, 15 January 2002 at 2:30 pm
in Conference Room B of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000 - 0244	Chairman	Confirmation of minutes/Discussions on the proposed amendments in LC Paper No. CB(2)744/00-01(01)	
0245 - 0341	Admin	Briefing on the proposed amendments to provisions on confiscation orders	
0342 - 0354	Chairman	Order of the items to be discussed	
0355 - 0408	Admin	Discussions based on both LC Paper Nos.CB(2)744/00-01(01) and 857/01-02(01)	
0409 - 0451	Chairman	- ditto -	
0452 - 0548	Admin	- ditto -	
0549 - 0623	Chairman	Cases in which restraint orders might be made	
0624 - 0840	Admin	Cases in which restraint orders might be made/Application to court for compensation	
0841 - 1033	Chairman	- ditto -	
1034 - 1045	Admin	- ditto -	
1046 - 1051	Chairman	- ditto -	
1052 - 1137	Admin	- ditto -	
1138 - 1145	Chairman	-ditto -	
1146 - 1227	Admin	- ditto -	
1228 - 1433	Chairman	- ditto -	
1434 - 1502	Admin	- ditto -	
1503 - 1545	Chairman	- ditto -	
1546 - 1599	Admin	- ditto -	
1600 - 1729	Chairman	- ditto -	
1730 - 1739	Admin	- ditto -	√ Re: paragraph 3(a)
1740 - 1835	ALA4	- ditto -	

1836 - 1904	Chairman	Cases in which restraint orders might be made	
1905 - 2139	Admin	- ditto -	
2140 - 2217	Chairman	- ditto -	
2218 - 2404	Mr Eric LI	Cases in which restraint orders might be made/Notice to defendants of restraint orders	
2405 - 2454	Admin	Notice to defendants of restraint orders	
2455 - 2502	Mr Eric LI	- ditto -	
2503 - 2511	Admin	- ditto -	
2512 - 2516	Mr Eric LI	- ditto -	
2517 - 2531	Chairman	- ditto -	
2532 - 2543	Mr Eric LI	- ditto -	
2544 - 2629	Admin	- ditto -	
2630 - 2825	Chairman	Reasons and examples for not being able to ensue a charge promptly to apply for a restraint order	
2826 - 3058	Admin	- ditto -	
3059 - 3214	Chairman	- ditto -	
3215 - 3429	Admin	- ditto -	
3430 - 3544	Chairman	- ditto -	
3545 - 3639	Admin	- ditto -	√ Re: paragraph 3(b)
3640 - 3955	Mr Eric LI	Reasons and examples for not being able to ensue a charge promptly to apply for a restraint order/Limit for the effective period of restraint orders	√ Re: paragraph 3(c)
3956 - 4115	Admin	Limit for the effective period of restraint orders	
4116 - 4129	Mr Eric LI	- ditto -	
4130 - 4205	Chairman	- ditto -	
4206 - 4209	Admin	- ditto -	
4210 - 4243	Mr Eric LI	- ditto -	
4244 - 4246	Chairman	- ditto -	
4247 - 4253	Mr Eric LI	- ditto -	
4254 - 4299	Chairman	- ditto -	
4300 - 4323	Mr Eric LI	- ditto -	
4324 - 4409	Chairman	- ditto -	

4410 - 4618	Miss Margaret NG	Cases in which restraint orders might be made	
4619 - 4625	Chairman	- ditto -	
4626 - 4639	Miss Margaret NG	- ditto -	
4640 - 4644	Chairman	- ditto -	
4645 - 4740	Miss Margaret NG	- ditto -	
4741 - 4911	Admin	- ditto -	
4912 - 4935	Chairman	Cases in which restraint orders might be made/Arrangements for enforcing arrests, carrying out investigations and laying charges	
4936 - 5101	Miss Margaret NG	Arrangements for enforcing arrests, carrying out investigations and laying charges	
5102 - 5123	Admin	- ditto -	
5124 - 5231	Chairman	- ditto -	√ Re: paragraph 3(d)
5232 - 5307	Miss Margaret NG	- ditto -	
5308 - 5314	Chairman	- ditto -	
5315 - 5341	Miss Margaret NG	- ditto -	
5342 - 5353	Chairman	- ditto -	
5354 - 5456	Miss Margaret NG	- ditto -	
5457 - 5718	Admin	- ditto -	
5719 - 5722	Chairman	- ditto -	
5723 - 5928	Admin	- ditto -	
5929 - 5932	Miss Margaret NG	- ditto -	
5933 - 5938	Chairman	- ditto -	
5939 - 010126	Miss Margaret NG	- ditto -	
01 0127 - 01 0241	Chairman	- ditto -	
01 0242 - 01 0521	Admin	- ditto -	
01 0522 - 01 0525	Chairman	- ditto -	
01 0526 - 01 0533	Admin	- ditto -	
01 0534 - 01 0548	Chairman	- ditto -	
01 0549 - 01 0813	Mrs Selina CHOW	- ditto -	
01 0814 - 01 0816	Chairman	- ditto -	
01 0817 - 01 1146	Miss Margaret NG	- ditto -	
01 1147 - 01 1241	Chairman	- ditto -	√ Re: paragraph 3(e)

01 1242 - 01 1512	Mr Eric LI	Compensation for the third party who suffered as a result of a restraint order	
01 1513 - 01 1524	Chairman	- ditto -	
01 1525 - 01 1558	Admin	- ditto -	
01 1559 - 01 1616	Mr Eric LI	- ditto -	
01 1617 - 01 1626	Admin	- ditto -	
01 1627 - 01 1629	Mr Eric LI	- ditto -	
01 1630 - 01 1734	Chairman	- ditto -	
01 1735 - 01 1756	Admin	- ditto -	
01 1757 - 01 1847	Chairman	- ditto -	
01 1848 - 01 1917	Admin	- ditto -	
01 1918 - 01 1923	Mr Eric LI	- ditto -	
01 1924 - 01 1937	Chairman	- ditto -	
01 1938 - 01 2036	Mr Eric LI	- ditto -	
01 2037 - 01 2131	Chairman	- ditto -	√ Re: paragraph 3(f)
01 2132 - 01 2226	Admin	Reasonable steps taken to ascertain the whereabouts of absconded defendant in issuing confiscation orders	
01 2227 - 01 2258	Chairman	- ditto -	
01 2259 - 01 2443	Admin	- ditto -	
01 2444 - 01 2448	Chairman	- ditto -	
01 2449 - 01 2628	Mrs Selina CHOW	- ditto -	
01 2629 - 01 2824	Miss Margaret NG	- ditto -	
01 2825 - 01 2913	Mr IP Kwok-him	- ditto -	
01 2914 - 01 3025	Admin	- ditto -	
01 3026 - 01 3031	Chairman	- ditto -	
01 3032 - 01 3141	Admin	- ditto -	
01 3142 - 01 3227	Chairman	- ditto -	
01 3228 - 01 3431	Mrs Selina CHOW	- ditto -	
01 3432 - 01 3447	Chairman	- ditto -	
01 3448 - 01 3502	Mr IP Kwok-him	- ditto -	
01 3503 - 01 3549	Admin	- ditto -	√ Re: paragraph 3(g)
01 3550 - 01 3611	Chairman	- ditto -	
01 3612 - 01 3701	Miss Margaret NG	- ditto -	
01 3702 - 01 3706	Admin	- ditto -	

01 3707 - 01 3853	Miss Margaret NG	- ditto -	
01 3854 - 01 3908	Chairman	- ditto -	
01 3909 - 01 3947	Admin	Views of deputations on the proposed amendments on assessing the proceeds of drug trafficking	
01 3948 - 01 4034	Chairman	Confiscation order against an absconded or dead person	
01 4035 - 01 4202	Admin	- ditto -	
01 4203 - 01 4216	Chairman	- ditto -	
01 4217 - 01 4230	Admin	- ditto -	
01 4231 - 01 4238	Chairman	- ditto -	
01 4239 - 01 4311	Admin	- ditto -	
01 4312 - 01 4328	Chairman	- ditto -	
01 4329 - 01 4454	ALA4	- ditto -	√ Re: paragraph 3(h)
01 4455 - 01 4527	Miss Margaret NG	- ditto -	
01 4528 - 01 4536	Chairman	- ditto -	
01 4537 - 01 4857	Miss Margaret NG	Views of deputations on the proposed amendments on assessing the proceeds of drug trafficking	
01 4858 - 01 4609	Admin	- ditto -	
01 4610 - 01 4720	Chairman	Confiscation order against an absconded or dead person	
01 4721 - 01 4723	Miss Margaret NG	- ditto -	
01 4724 - 01 4731	Chairman	- ditto -	
01 4732 - 01 4739	Miss Margaret NG	- ditto -	
01 4740 - 01 4742	Chairman	- ditto -	
01 4743 - 01 4809	Miss Margaret NG	- ditto -	
01 4810 - 01 5229	Chairman	Arrangement for next meeting	

Note : The audio records of the above proceedings are kept at the LegCo Library

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 20 February 2002