

Speech by the Secretary for Justice
The Honourable Rimsky Yuen, SC
at the Meeting of the Legislative Council on 26 November 2014

Resumption of the Second Reading Debate on
the Statute Law (Miscellaneous Provisions) Bill 2014

Mr President,

Since the introduction of the Statute Law (Miscellaneous Provisions) Bill 2014 (“the Bill”) into the Legislative Council in April this year, four Bills Committee meetings have been held. The Bills Committee chaired by the Hon. TAM Yiu-chung has thoroughly examined the clauses and the issues involved. I would like to express my gratitude to the Hon. TAM Yiu-chung and all the members of the Bills Committee for their hard work and valuable opinions.

2. As I pointed out when introducing the Bill into the Legislative Council, the Bill seeks to propose technical and, in our view, non-controversial amendments to various Ordinances for the purpose of updating or improving the relevant existing legislation. The Bill comprises 15 parts and deals with miscellaneous amendments proposed by bureaux and the Department of Justice (DoJ) in a consolidated manner.

3. The proposed amendments in the Bill fall roughly into three categories. The first category of amendments are those proposed by the relevant bureaux in the light of court rulings, including amendments to certain sexual offence

provisions in the Crimes Ordinance and certain defence provisions in the Trade Descriptions Ordinance.

4. The second category of amendments in the Bill aim to implement proposals put forward by individual bodies/organisations. They include: (1) the various miscellaneous amendments to the four anti-discrimination Ordinances proposed by the Equal Opportunities Commission; (2) the amendments to the Evidence Ordinance suggested by the Hong Kong Society of Notaries relating to admissibility of notarial instruments; (3) the amendments to section 8A of the Legal Practitioners Ordinance in response to the Law Society's proposals; and (4) the amendments to section 7 and Schedule 2 of the Building Management Ordinance so as to implement one of the proposals of the Interim Report of the Review Committee on the Building Management Ordinance.

5. The third category concerns miscellaneous and technical amendments to various Ordinances or subsidiary legislation proposed for different purposes mainly by the DoJ and other relevant bureaux.

6. I will be moving some amendments at the Committee Stage later. These amendments have all been agreed by the Bills Committee and can be grouped into the following six categories which I will outline briefly below.

Amendment to Clause 43 of Part 4

7. Clause 43 proposes to amend section 81 of the Evidence Ordinance (Cap. 8). However, after the gazettal of the Bill, amendments to section 81 of the Evidence Ordinance have also been proposed under clause 13 of the Competition (Amendment) Bill 2014. The Competition (Amendment) Bill was

passed before the Bill and gazetted as an Ordinance on 21 November 2014. With reference to the latest version of section 81 of the Evidence Ordinance, I will propose a Committee Stage Amendment (“CSA”) to clause 43 of the Bill in order to ensure that the proposed amendments will be properly effected.

Deletion of Part 10 (i.e. Clause 57)

8. The proposed amendment in Part 10 of the Bill, which seeks to repeal item 29 of Schedule 1 to the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997), was suggested by the Law Society of Hong Kong (“Law Society”). The policy intent of the Law Society is to reinstate the law prior to the above 1997 Ordinance so that only solicitors or foreign lawyers could become trustees or co-trustees of a trust. In view of the views expressed by the Panel on Administration of Justice and Legal Services, the Administration consulted the Law Society further on a number of occasions about their policy intent. The Law Society subsequently confirmed in May 2014 that as the proposed amendment in Part 10 might not achieve the intended objective, they would not pursue the proposed amendment. I will therefore move a CSA to delete Part 10 of the Bill.

Amendment to Clause 63 of Part 12

9. Having regard to the Companies Ordinance (Cap. 622) which has come into operation on 3 March 2014, I will propose a CSA to clause 63 to add the entry of “Registrar of Companies” specified for the purposes of the

Companies Ordinance to the proposed Schedule to the Specification of Public Offices Notice¹ (Cap. 1 sub. leg. C).

Addition of Division 5 in Part 12 (with consequential amendment to Clause 1(2) and addition of Clause 1(5))

10. To follow on a consequential amendment that was omitted in previous amendment exercise, the opportunity is taken to add the entry of “Secretary for Home Affairs” specified for the purposes of the Books Registration Ordinance (Cap. 142) to the existing Specification of Public Offices (Cap. 1 sub. leg. C) by way of CSA. The amendment is deemed to have come into operation on 9 April 1998.

Addition of Divisions 47A and 47B and replacement of Division 53 by the new Divisions 53 to 55 in Part 14

11. After the gazettal of the Bill, four new regulations have been enacted under section 3 of the United Nations Sanctions Ordinance (Cap. 537). I will propose CSAs to add the new Divisions 47A and 47B and to replace Division 53 by the new Divisions 53 to 55 in Part 14 in order to amend the definitions of Commissioner in the Chinese texts of the regulations concerned by removing the references to “香港” in “香港海關關長”, “香港海關副關長” and “香港海關助理關長”.

¹ The current title of Cap 1C is “Specification of Public Officers”. Clause 60 of the Bill proposes to amend the title to read as “Specification of Public Officers Notice”

Amendments to Clauses 1(3), 14(2), 48(3), 51, 52(2), 54, 64 and 68(2)(a)

12. These technical amendments in the Bill seek to refine the provisions.

Conclusion

13. Mr. President, with these remarks, I urge Members to support the second reading of the Statute Law (Miscellaneous Provisions) Bill 2014 and endorse all the amendments to be moved by the Administration at the subsequent Committee Stage.

14. Thank you, Mr. President.