

NATIONAL SECURITY (LEGISLATIVE PROVISIONS) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
4	In the proposed section 2(1)(c), by deleting “ , 藉着作出任何作為而 ” and substituting “ 而作出任何作 為 , 藉此 ” .
<u>5</u>	<u>By adding “ 的 ” after “ 安全 ” .</u>
6	(a) In the proposed section 9A(1)(a), by adding “intentionally” before “incites” . (b) In the proposed section 9A(1)(b), by adding “intentionally” before “incites” . (c) In the proposed section 9A, by adding - “(1A) An incitement shall not constitute an offence under subsection (1) unless the nature of the incitement and the circumstances in which the incitement is made are such that -

(a) one or more persons
incited are likely to
be induced; or

(b) an ordinary person
would, if subjected to
the incitement, likely
be induced,

to (where subsection (1)(a) applies)
commit the offence or to (where
subsection (1)(b) applies) engage in
violent public disorder.”.

(d) In the proposed section 9C(1), by deleting
“cause the commission of” and substituting
“induce a person to commit”.

(e) In the proposed section 9C, by adding -

“(3) No prosecution for an
offence under subsection (2) shall be
commenced after 3 years from the date
of commission of the offence.”.

(f) In the proposed section 9D(3)(d), by
deleting “組別” and substituting “階層”.

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(a) In the proposed section 18A, by deleting
“Article 39” and substituting “Chapter
III”.

(b) In the proposed section 18B(1), by deleting "chief superintendent" and substituting "assistant commissioner".

New By adding immediately before clause 8 -

"7A. Section added

The Official Secrets Ordinance (Cap. 521) is amended by adding in Part I -

**"1A. Enforcement, etc.
of this Ordinance
to be consistent
with Basic Law**

The provisions of this Ordinance are to be interpreted, applied and enforced in a manner that is consistent with Chapter III of the Basic Law."

8(1) By deleting "of the Official Secrets Ordinance (Cap. 521)".

9 By deleting the clause.

14 In the proposed section 2A, by deleting "Article 39" and substituting "Chapter III".

New By adding -

**"14A. Prohibition of
operation of
societies**

Section 8(1)(a) is amended by
repealing "national security or".

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- (a) In the proposed section 8A(1), by deleting "國家安全利益" and substituting "維護國家安全".
- (b) In the proposed section 8A(2)(c), by deleting ", as officially proclaimed by means of an open decree," and substituting "(as officially announced by means of an open proclamation)".
- (c) In the proposed section 8A(5)(f)(ii), by deleting "the Schedule" and substituting "Schedule 1".
- (d) In the proposed section 8C(1), by deleting "a proscribed organization" and substituting "a local organization after it has been proscribed under section 8A".
- (e) In the proposed section 8D(3)(a), by adding "not" before "satisfied".
- (f) In the proposed section 8D(3)(a)(i), by deleting "not".
- (g) In the proposed section 8D(3)(a)(ii) –
- (i) by deleting "insufficient" and substituting "sufficient";
- (ii) by deleting "; or" and substituting "; and".

- (h) In the proposed section 8D(3)(a)(iii), by deleting "insufficient" and substituting "sufficient".
- (i) In the proposed section 8D(3)(a)(iii)(A), by deleting "國家安全利益" and substituting "維護國家安全".
- (j) In the proposed section 8D(3)(b), by deleting "not".
- (k) In the proposed section 8D(6), by deleting everything after "admit" and substituting "any evidence that would, but for this subsection, not be admissible in a court of law.".
- (l) In the proposed section 8D, by adding -
- "(7) A party to an appeal lodged under subsection (1) may appeal to the Court of Appeal against the decision of the Court of First Instance on any ground involving a question of law.
- (8) An appeal may only be lodged under subsection (7) with leave to appeal granted by the Court of First Instance or, where the Court of First Instance refuses to grant such leave, by the Court of Appeal.".

(m) In the proposed section 8E, in the heading, by deleting "**Chief Justice may make rules**" and substituting "**Secretary for Security may make regulations**".

(n) By deleting the proposed section 8E(1) and substituting -

"(1) The Secretary for Security may, subject to the approval of the Legislative Council, make regulations to provide for the handling of appeals under section 8D including matters which are incidental to or arise out of the hearing of such appeals."

(o) In the proposed section 8E(2), by deleting "rules under this section, the Chief Justice" and substituting "regulations under this section, the Secretary for Security".

(p) In the proposed section 8E(3), by deleting "Rules" and substituting "Regulations".

(q) In the proposed section 8E(4), by deleting "rules" where it twice appears and substituting "regulations".

(r) By adding -

**"8F. Rules Committee
may make rules
for appeals**

The Rules Committee constituted under section 55 of the High Court Ordinance (Cap. 4) may, subject to the regulations made under section 8E, make rules of court to provide for -

- (a) the lodgement, hearing and withdrawal of appeals under section 8D;
- (b) costs in respect of such appeals;
- (c) the practice and procedure concerning the hearing of such appeals; and
- (d) such other procedural matters which are incidental to or arise out of the hearing of such appeals.

8G. Matters following proscription

Schedule 2 has effect in relation to the proscription of an organization under section 8A."

Schedule By deleting the subheading immediately before section 2.

Schedule By deleting section 2.

Schedule By adding -

"11A. "Schedule 1" substituted for "the Schedule"

Sections 2(2), (2B) and (3), 9(1)(c) and 14A(2) are amended by repealing "the Schedule" and substituting "Schedule 1".

Schedule, section 8 By deleting "under section 8D(3)" and substituting "on an appeal under section 8D(1)".

Schedule, section 12 By deleting paragraph (a) and substituting -

"(a) by repealing -

"SCHEDULE [s. 2]"

and substituting -

"SCHEDULE 1 [ss. 2, 8A, 9 & 14A]" ; "

Schedule By adding immediately after section 12 -

"12A. Schedule 2 added

The following is added -

"SCHEDULE 2 [s. 8G]"

MATTERS FOLLOWING PROSCRIPTION
OF AN ORGANIZATION UNDER
SECTION 8A OF THIS
ORDINANCE

1. **Companies registered
under Companies
Ordinance**

(1) If a company registered under the Companies Ordinance (Cap. 32) is proscribed under section 8A of this Ordinance, the Registrar of Companies shall -

(a) strike the name of such company off the register of companies kept by the Registrar; and

(b) publish a notice of the striking off in the Gazette,

and upon the publication of the notice such company shall be dissolved.

(2) The Registrar of Companies may defer taking action under subsection (1) if he is satisfied that the right to take legal action against the proscription has not been exhausted.

(3) On an application of the Registrar of Companies to the Court

of First Instance, a company struck off the register under subsection (1) shall be wound up and sections 360D, 360E, 360F, 360G, 360H, 360I, 360J, 360K, 360L and 360M of the Companies Ordinance (Cap. 32) shall apply to such company as if such company were a company struck off the register and dissolved under section 360C of that Ordinance.

2. Unregistered companies under Companies Ordinance

(1) An unregistered company within the meaning of section 326 of the Companies Ordinance (Cap. 32) which is proscribed under section 8A of this Ordinance shall for the purpose of section 327(3) of the Companies Ordinance (Cap. 32) be regarded as having been dissolved.

(2) On an application of the Registrar of Companies to the Court of First Instance, the company referred to in subsection (1) shall be wound up and Part X of the

Companies Ordinance (Cap. 32) shall apply to such company.

3. Other types of organizations

(1) If an organization that is proscribed under section 8A of this Ordinance is not registered under the Companies Ordinance (Cap. 32) but is registered under any other Ordinance, the appropriate authority shall -

- (a) cancel the registration of that organization and (if applicable under that other Ordinance) remove or strike its name off the relevant register or any other similar record; and
- (b) publish a notice of the cancellation in the Gazette,

and upon the publication of the notice -

- (c) that organization shall be dissolved for the purposes of that

other Ordinance and
all other purposes;
and

(d) the provisions (if
any) of that other
Ordinance applicable
to -

(i) the
dissolution
of that
organization
shall apply
as if it
were
dissolved
under that
other
Ordinance;

(ii) the winding
up of
organizations
shall apply
to that
organization.

(2) Subject to subsection
(1)(d), an organization referred to
in subsection (1) shall, on an

application of the appropriate authority to the Court of First Instance, be wound up and Part X of the Companies Ordinance (Cap. 32) shall apply as if such organization were an unregistered company within the meaning of section 326 of that Ordinance.

(3) The appropriate authority may defer taking action under subsection (1) if he is satisfied that the right to take legal action against the proscription has not been exhausted.

(4) In this section, "appropriate authority" means -

(a) where a person has authority under the relevant Ordinance to cancel the registration of the relevant organization under that Ordinance, that person; or

(b) in any other case, the Registrar of Companies."

Schedule,
section 13

By adding "7(6)," after "5,".

Schedule

By adding immediately before section 29 -

"28A. Interpretation

Section 2(1) of the Organized and
Serious Crimes Ordinance (Cap. 455) is
amended -

(a) in the definition of "Schedule 1
offence", by repealing "of any
of those offences;" and
substituting -

"of any of those offences,
but an act that is not an
offence itself shall not be a
Schedule 1 offence by virtue of
paragraph (b), (c), (d) or (e);

(b) in the definition of "specified
offence", by repealing "of any
of those offences;" and
substituting -

"of any of those offences,
but an act that is not an
offence itself shall not be a
specified offence by virtue of
paragraph (b), (c), (d) or
(e);".

Schedule,
section 29

- (a) By deleting "of the Organized and Serious Crimes Ordinance (Cap. 455)".
- (b) In the proposed section 5(9)(a), by adding "or" at the end.
- (c) In the proposed section 5(9)(b), by deleting "; or" at the end and substituting a comma.
- (d) By deleting the proposed section 5(9)(c).

Schedule

By adding immediately after section 34 -

"Crimes (Amendment)(No. 2)
Ordinance 1997

34A. Repeal

The Crimes (Amendment)(No. 2)
Ordinance 1997 (89 of 1997) is repealed."