

LEGISLATIVE COUNCIL

MINUTES

No. 36

Minutes of the meeting held on Wednesday 4 July 2001 and
Thursday 5 July 2001 at 2:30 pm respectively

Members present:

President

The Hon Mrs Rita FAN HSU Lai-tai, GBS, JP

The Hon Kenneth TING Woo-shou, JP

The Hon James TIEN Pei-chun, GBS, JP

The Hon David CHU Yu-lin, JP

The Hon Cyd HO Sau-lan

The Hon Albert HO Chun-yan

Ir Dr the Hon Raymond HO Chung-tai, JP

The Hon LEE Cheuk-yan

The Hon Martin LEE Chu-ming, SC, JP

The Hon Eric LI Ka-cheung, JP

Dr the Hon David LI Kwok-po, GBS, JP (absent on 5.7.2001)

The Hon Fred LI Wah-ming, JP

Dr the Hon LUI Ming-wah, JP

The Hon NG Leung-sing, JP

Prof the Hon NG Ching-fai

The Hon Margaret NG

The Hon Mrs Selina CHOW LIANG Shuk-yee, JP

The Hon James TO Kun-sun

The Hon CHEUNG Man-kwong

The Hon HUI Cheung-ching, JP

The Hon CHAN Kwok-keung

The Hon CHAN Yuen-han, JP

The Hon Bernard CHAN

The Hon CHAN Kam-lam

The Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP

The Hon LEUNG Yiu-chung

The Hon SIN Chung-kai

The Hon Andrew WONG Wang-fat, JP

Dr the Hon Philip WONG Yu-hong

The Hon WONG Yung-kan

The Hon Jasper TSANG Yok-sing, JP

The Hon Howard YOUNG, JP

Dr the Hon YEUNG Sum

The Hon YEUNG Yiu-chung, BBS

The Hon LAU Chin-shek, JP

The Hon LAU Kong-wah

The Hon LAU Wong-fat, GBS, JP

The Hon Mrs Miriam LAU Kin-yee, JP

The Hon Ambrose LAU Hon-chuen, GBS, JP

The Hon Emily LAU Wai-hing, JP

The Hon CHOY So-yuk

The Hon Andrew CHENG Kar-foo

The Hon SZETO Wah

The Hon Timothy FOK Tsun-ting, SBS, JP

The Hon LAW Chi-kwong, JP

The Hon TAM Yiu-chung, GBS, JP

Dr the Hon TANG Siu-tong, JP

The Hon Abraham SHEK Lai-him, JP

The Hon LI Fung-ying, JP

The Hon Henry WU King-cheong, BBS

The Hon Tommy CHEUNG Yu-yan, JP

The Hon Michael MAK Kwok-fung

The Hon Albert CHAN Wai-yip

The Hon LEUNG Fu-wah, MH, JP

Dr the Hon LO Wing-lok

The Hon WONG Sing-chi

The Hon Frederick FUNG Kin-kee (absent on 5.7.2001)

The Hon IP Kwok-him, JP

The Hon LAU Ping-cheung

The Hon Audrey EU Yuet-mee, SC, JP

Public officers attending:

On 4.7.2001 & 5.7.2001

Mr Thomas TSO Man-tai, JP
Secretary for Planning and Lands

On 4.7.2001 only

The Honourable Donald TSANG Yam-kuen, JP
The Chief Secretary for Administration

The Honourable Antony LEUNG Kam-chung, GBS, JP
The Financial Secretary

The Honourable Elsie LEUNG Oi-sie, JP
The Secretary for Justice

Mr CHAU Tak-hay, JP
Secretary for Commerce and Industry

Mr LAM Woon-kwong, GBS, JP
Secretary for Home Affairs

Mrs Lily YAM KWAN Pui-ying, JP
Secretary for the Environment and Food

Mrs Regina IP LAU Suk-yee, JP
Secretary for Security

Mrs Carrie YAU TSANG Ka-lai, JP
Secretary for Information Technology and Broadcasting

Ms Sandra LEE Suk-yee, JP
Secretary for Economic Services

Mr Clement MAK Ching-hung, JP
Secretary for Constitutional Affairs

Mr Thomas YIU Kei-chung, JP
Secretary for Health and Welfare

On 5.7.2001 only

Mr LEE Shing-see, JP
Secretary for Works

Clerks in attendance:

On 4.7.2001 & 5.7.2001

Mr Ricky FUNG Choi-cheung, JP, Secretary General

Mr Ray CHAN Yum-mou, Assistant Secretary General (3)

On 4.7.2001

Mr LAW Kam-sang, JP, Deputy Secretary General

Tabling of Papers

The following papers were laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

<u>Subsidiary Legislation / Instruments</u>	<u>L.N. No.</u>
Tax Reserve Certificates (Rate of Interest) (No. 7) Notice 2001 (gazetted on 29.6.2001)	151/2001

Other Papers

- No.97 - Hong Kong Export Credit Insurance Corporation Annual Report 2000-2001 (published on 28.6.2001)
- No.98 - Sir David Trench Fund for Recreation Trustee's Report 2000-2001 (published on 3.7.2001)
- No.99 - Report of the Public Accounts Committee on Report No. 36 of the Director of Audit on the Results of Value for Money Audits (July 2001 - P.A.C. Report No. 36) (published on 4.7.2001)
- Report of the Panel on Manpower 2000/2001 (published on 3.7.2001)
- Report of the Panel on Commerce and Industry 2000/2001 (published on 29.6.2001)
- Report of the Panel on Public Service 2000/2001 (published on 29.6.2001)
- Report of the Panel on Administration of Justice and Legal Services 2000/2001 (published on 29.6.2001)
- Report of the Panel on Transport 2000/2001 (published on 29.6.2001)
- Report of the Panel on Security 2000/2001 (published on 3.7.2001)
- Report of the Panel on Constitutional Affairs 2000/2001 (published on 3.7.2001)
- Report of the Panel on Food Safety and Environmental Hygiene 2000/2001 (published on 3.7.2001)
- Report of the Panel on Education 2000/2001 (published on 3.7.2001)
- Report of the Panel on Planning, Lands and Works 2000/2001 (published on 29.6.2001)

Report of the Panel on Health Services 2000/2001 (published on 29.6.2001)

Report on the Financial Systems in the United Kingdom and the United States of America based on the findings of the overseas duty visit paid by the delegation of the Financial Affairs Panel and the Bills Committee on Securities and Futures Bill and Banking (Amendment) Bill 2000 in April 2001 (published on 3.7.2001)

Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 2001 (published on 3.7.2001)

Report of the Bills Committee on Attachment of Income Orders (Amendment) Bill 2001 (published on 29.6.2001)

Addresses

Hon Eric LI, Chairman of the Public Accounts Committee, addressed the Council on the Committee's Report on Report No. 36 of the Director of Audit on the Results of Value for Money Audits (July 2001 - P.A.C. Report No. 36).

Hon LAU Chin-shek, Chairman of the Panel on Manpower, addressed the Council on the Panel's report 2000/2001.

Hon Kenneth TING, Chairman of the Panel on Commerce and Industry, addressed the Council on the Panel's report 2000/2001.

Hon TAM Yiu-chung, Chairman of the Panel on Public Service, addressed the Council on the Panel's report 2000/2001.

Hon Margaret NG, Chairman of the Panel on Administration of Justice and Legal Services, addressed the Council on the Panel's report 2000/2001.

Hon Mrs Miriam LAU, Chairman of the Panel on Transport, addressed the Council on the Panel's report 2000/2001.

Hon LAU Kong-wah, Chairman of the Panel on Security, addressed the Council on the Panel's report 2000/2001.

Hon Andrew WONG, Chairman of the Panel on Constitutional Affairs, addressed the Council on the Panel's report 2000/2001.

Hon Fred LI, Chairman of the Panel on Food Safety and Environmental Hygiene, addressed the Council on the Panel's report 2000/2001.

Dr Hon YEUNG Sum, Chairman of the Panel on Education, addressed the Council on the Panel's report 2000/2001.

Dr Hon TANG Siu-tong, Chairman of the Panel on Planning, Lands and Works, addressed the Council on the Panel's report 2000/2001.

Hon Mrs Sophie LEUNG, Chairman of the Panel on Health Services, addressed the Council on the Panel's report 2000/2001.

Hon Ambrose LAU, Leader of the delegation of the Financial Affairs Panel and the Bills Committee on Securities and Futures Bill and Banking (Amendment) Bill 2000 in April 2001, addressed the Council on the Report on the Financial Systems in the United Kingdom and the United States of America based on the findings of the overseas duty visit paid by the delegation.

Questions

1. Hon LAU Chin-shek asked Question 1.

The Secretary for the Environment and Food replied.

Five Members asked supplementaries and the Secretary for the Environment and Food replied.

2. Hon LEE Cheuk-yan asked Question 2.

The Secretary for Health and Welfare replied.

Six Members asked supplementaries and the Secretary for Health and Welfare replied.

3. Hon Ambrose LAU asked Question 3.

The Secretary for Planning and Lands replied.

Six Members asked supplementaries and the Secretary for Planning and Lands replied.

4. Hon Mrs Selina CHOW asked Question 4.

The Secretary for Security replied.

Eight Members asked supplementaries and the Secretary for Security replied.

5. Hon Kenneth TING asked Question 5.

The Secretary for Economic Services replied.

Five Members asked supplementaries and the Secretary for Economic Services replied.

Written replies to Questions 6 to 19 were tabled for Members' information.

Bills

First Reading

Statute Law (Miscellaneous Provisions) Bill 2001 Fire Services (Amendment) Bill 2001

The Bills were read the first time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.

Second Reading

Statute Law (Miscellaneous Provisions) Bill 2001

The Secretary for Justice moved the Second Reading and addressed the Council.

Question on the Second Reading proposed. The President stated that in accordance with Rule 54(4) of the Rules of Procedure, the debate was adjourned and the Bill was referred to the House Committee.

Fire Services (Amendment) Bill 2001

The Secretary for Security moved the Second Reading and addressed the Council.

At 5:45 pm, the President's Deputy took the chair during the temporary absence of the President.

Question on the Second Reading proposed. The President's Deputy stated that in accordance with Rule 54(4) of the Rules of Procedure, the debate was adjourned and the Bill was referred to the House Committee.

Dutiable Commodities (Amendment) Bill 2001

Resumption of Second Reading debate

The debate on the Second Reading which had been moved on 28 February 2001 resumed.

Hon Kenneth TING, Chairman of the Bills Committee on Dutiable Commodities (Amendment) Bill 2001, addressed the Council on the Report of the Bills Committee on the Bill.

At 5:52 pm, the President resumed the chair.

Three Members spoke on the Bill.

The Secretary for Commerce and Industry replied.

Question on the Second Reading put and agreed to.

Bill read the second time and committed to a Committee of the whole Council.

Committee Stage

The Council went into Committee and considered the **Dutiable Commodities (Amendment) Bill 2001**.

Question that clauses 1, 5, 6, 7, 10 and 13 stand part of the Bill proposed, put and agreed to.

Question that clauses 2, 3, 4, 8, 9, 11 and 12 stand part of the Bill proposed.

The Secretary for Commerce and Industry moved amendments to the aforesaid clauses and addressed the Committee.

Question on the amendments put and agreed to.

Question that clauses 2, 3, 4, 8, 9, 11 and 12, as amended, stand part of the Bill proposed, put and agreed to.

New clause 12A read the first time.

The Secretary for Commerce and Industry moved the Second Reading of new clause 12A and addressed the Committee.

Question on the Second Reading of new clause 12A proposed, put and agreed to.

New clause 12A read the second time.

The Secretary for Commerce and Industry moved the addition of new clause 12A to the Bill.

Question on the addition proposed, put and agreed to.

The Council then resumed.

Third Reading

The Secretary for Commerce and Industry reported that

the **Dutiable Commodities (Amendment) Bill 2001**

had passed through the Committee with amendments. He moved that the Bill be read the third time and do pass.

Question on the Third Reading proposed, put and agreed to.

Bill read the third time and passed.

Attachment of Income Orders (Amendment) Bill 2001

Resumption of Second Reading debate

The debate on the Second Reading which had been moved on 4 April 2001 resumed.

Hon Albert HO, Chairman of the Bills Committee on Attachment of Income Orders (Amendment) Bill 2001, addressed the Council on the Report of the Bills Committee on the Bill.

Two Members spoke on the Bill.

The Secretary for Home Affairs replied.

Question on the Second Reading put and agreed to.

Bill read the second time and committed to a Committee of the whole Council.

Committee Stage

The Council went into Committee and considered the **Attachment of Income Orders (Amendment) Bill 2001**.

Question that headings before clauses 1, 2, 3, 4 and 5, clauses 1 and 5 stand part of the Bill proposed, put and agreed to.

Question that clauses 2, 3 and 4 stand part of the Bill proposed.

The Secretary for Home Affairs moved amendments to the aforesaid clauses and addressed the Committee.

Question on the amendments put and agreed to.

Question that clauses 2, 3 and 4, as amended, stand part of the Bill proposed, put and agreed to.

The Council then resumed.

Third Reading

The Secretary for Home Affairs reported that

the **Attachment of Income Orders (Amendment) Bill 2001**

had passed through the Committee with amendments. He moved that the Bill be read the third time and do pass.

Question on the Third Reading proposed, put and agreed to.

Bill read the third time and passed.

Motions

Proposed resolution under the Disability Discrimination Ordinance

The Secretary for Health and Welfare moved the motion in Appendix I and addressed the Council.

Question on the motion proposed, put and agreed to.

Proposed resolution under the Interpretation and General Clauses Ordinance

The Secretary for Information Technology and Broadcasting moved the motion in Appendix II and addressed the Council.

Question on the motion proposed.

Six Members spoke on the motion.

The Secretary for Information Technology and Broadcasting replied.

Question on the motion put and agreed to.

Members' Motions

Proposed resolution under the Interpretation and General Clauses Ordinance

Hon Mrs Selina CHOW moved the following motion and addressed the Council:

Resolved that in relation to the

- (a) Merchant Shipping (Seafarers) (Ro-Ro Passenger Ships—Training) (Amendment) Regulation 2001, published in the Gazette as Legal Notice No. 104 of 2001;
- (b) Merchant Shipping (Seafarers) (Passenger Ships Other Than Ro-Ro Passenger Ships—Training) Regulation, published in the Gazette as Legal Notice No. 105 of 2001;
- (c) Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built Before 1 September 1984) (Amendment) Regulation 2001, published in the Gazette as Legal Notice No. 106 of 2001;
- (d) Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built On or After 1 September 1984) (Amendment) Regulation 2001, published in the Gazette as Legal Notice No. 107 of 2001;
- (e) Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) (Amendment) Regulation 2001, published in the Gazette as Legal Notice No. 108 of 2001;
- (f) Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) (Amendment) Regulation 2001, published in the Gazette as Legal Notice No. 109 of 2001;
- (g) Merchant Shipping (Safety) (Musters and Training) (Amendment) Regulation 2001, published in the Gazette as Legal Notice No. 110 of 2001;
- (h) Freight Containers (Safety) (Applications for Approval of Containers) Regulation, published in the Gazette as Legal Notice No. 111 of 2001;
- (i) Freight Containers (Safety) (Fees) Regulation, published in the Gazette as Legal Notice No. 112 of 2001;
- (j) Freight Containers (Safety) (Arrangements for Authorized Persons) Order, published in the Gazette as Legal Notice No. 113 of 2001; and
- (k) Freight Containers (Safety) (Examination Procedure) Order, published in the Gazette as Legal Notice No. 114 of 2001,

and laid on the table of the Legislative Council on 6 June 2001, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) for amending subsidiary legislation be extended under section 34(4) of that Ordinance to the meeting of 11 July 2001.

Question on the motion proposed, put and agreed to.

Proposed resolution under Article 159 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China

Hon LEUNG Yiu-chung moved the following motion and addressed the Council:

Resolved that this Council consents to forwarding the following amendments to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China to the delegation of the Hong Kong Special Administrative Region to the National People's Congress, for submission to the National People's Congress –

"Article 1

Article 45 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China which provides that "The Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government." "The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." "The specific method for selecting the Chief Executive is prescribed in Annex I 'Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region'," shall be amended as: "The Chief Executive of the Hong Kong Special Administrative Region shall be selected by universal suffrage held locally and be appointed by the Central People's Government." "The specific voting method for selecting the Chief Executive shall be prescribed by an electoral law enacted by the Hong Kong Special Administrative Region in accordance with the principles of democracy and openness." "The first Chief Executive shall be selected in accordance with the Decision of the National People's Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region."

Article 2

Annex I of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China shall be deleted.”.

Question on the motion proposed.

Four Members spoke on the motion.

At 8:00 pm, the President's Deputy took the chair during the temporary absence of the President.

Another six Members spoke on the motion.

At 8:45 pm, the President resumed the chair.

Seven more Members and the Secretary for Constitutional Affairs spoke on the motion.

Hon LEUNG Yiu-chung replied.

The President reminded Members that Article 159 of the Basic Law of Hong Kong Special Administrative Region of the People's Republic of China stipulated that the passage of this motion by the Council required the consent of two-thirds of all the Members of the Council.

Question on the motion put.

Hon LAU Chin-shek claimed a division. The President then ordered the Council to divide under Rule 47(1) of the Rules of Procedure.

The President announced that there were 59 Members present, 21 were in favour of the motion and 37 against it. (Voting record in Appendix III.) Since the question was not agreed by a two-thirds majority of all the Members of the Council, she declared that the motion was negatived.

The President suspended the meeting at 10:18 pm.

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The Council resumed at 2:30 pm on 5 July 2001.

Reviewing the compensation policy on land resumption

Hon Albert CHAN moved the following motion and addressed the Council:

That, as the resumption of land by the Government for infrastructural projects or development will affect the original agricultural, industrial or commercial development on the land and will even lead to the closure of many enterprises, this Council urges the Government to expeditiously review the compensation policy on land resumption and the relevant administrative arrangements in order to assist as far as possible the operators who are affected by the resumption and reduce its impact on them, thereby ensuring that they can continue with or resume their operations.

Question on the motion proposed.

12 Members and the Secretary for Planning and Lands spoke on the motion.

Hon Albert CHAN replied.

Question on the motion put and agreed to.

Expeditiously improving flood prevention and relief work

Dr Hon TANG Siu-tong moved the following motion and addressed the Council:

That, as the Government has failed to effectively monitor the implementation and progress of flood prevention works, resulting in residents in various districts of Hong Kong (especially the North and North West New Territories) suffering losses due to serious flooding, this Council requests the Government to expeditiously improve flood prevention and relief work, including:

- (a) closely monitoring the implementation of various flood prevention projects, which include preventing the blockage of drainage channels by mud and gravel from work sites, temporary facilities, construction materials and machinery, etc.;
- (b) improving the existing mechanisms for land resumption, compensation and rehousing, and allocating additional resources to speed up the flood prevention projects while, at the same time, adopting measures to safeguard against delays of such projects due to the shortage of funds and inadequate technology on the part of the contractors;
- (c) thoroughly investigating the causes of recurrent flooding in various areas over the years, and formulating a comprehensive contingency plan covering flood forecasting, flood prevention and relief work;

- (d) identifying the responsibilities of the parties concerned for the recent occurrence of widespread flooding, and assisting the affected residents in seeking reasonable compensation; and
- (e) expeditiously cleaning up the environmental blackspots which affect the flood prevention projects in the New Territories, and stepping up maintenance and clearance works on drainage systems before the approach of the rainy season.

Question on Dr Hon TANG Siu-tong's motion proposed.

The President stated that Hon WONG Sing-chi would move an amendment to the motion. In accordance with the Rules of Procedure, the motion and the amendment would be debated together in a joint debate.

Hon WONG Sing-chi moved the following amendment to Dr Hon TANG Siu-tong's motion and addressed the Council:

To add "strongly condemns the Government for turning a blind eye to flooding problems over the years, and" after "this Council"; to add "expeditiously rehousing eligible residents of seriously flooded areas in public housing," after "(b) improving the existing mechanisms for land resumption, compensation and rehousing,"; to delete "and" after "and assisting the affected residents in seeking reasonable compensation;"; and to add "; and (f) stepping up regulatory control over land use, and prosecuting cases of unauthorized developments so as to stamp out such developments" after "and stepping up maintenance and clearance works on drainage systems before the approach of the rainy season".

Question on Hon WONG Sing-chi's amendment to Dr Hon TANG Siu-tong's motion proposed.

14 Members spoke on the motion and the amendment.

Dr Hon TANG Siu-tong spoke on the amendment.

The Secretary for Works spoke on the motion and the amendment.

Question on Hon WONG Sing-chi's amendment to Dr Hon TANG Siu-tong's motion put.

Dr Hon TANG Siu-tong claimed a division. The President then ordered the Council to divide under Rule 47(1) of the Rules of Procedure.

The President announced that among the Members returned by functional constituencies, 27 were present, 12 were in favour of the amendment, eight against it and seven abstained; while among the Members returned by geographical constituencies

through direct elections and by the Election Committee, 23 were present, 11 were in favour of the amendment, two against it and nine abstained. (Voting record in Appendix IV.) Since the question was not agreed by a majority of each of the two groups of Members present, she declared that the amendment was negatived.

Dr Hon TANG Siu-tong replied.

Question on Dr Hon TANG Siu-tong's motion put and agreed to.

Next Meeting

The President declared that the next meeting of the Council would be held on 11 July 2001 at 9:00 am.

The Council was adjourned at 6:27 pm.

(Mrs Rita FAN HSU Lai-tai)
President

Council Chamber
Hong Kong