

立法會
Legislative Council

LC Paper No. CB(2) 1720/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 30th meeting
held in the Legislative Council Chamber
at 4:45 pm on Friday, 1 June 2001**

Members present :

Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, JP
Hon David CHU Yu-lin
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon NG Leung-sing
Hon Margaret NG
Hon HUI Cheung-ching
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung
Hon LAU Chin-shek, JP
Hon LAU Kong-wah
Hon LAU Wong-fat, GBS, JP
Hon Ambrose LAU Hon-chuen, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah

Hon Timothy FOK Tsun-ting, SBS, JP
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent :

Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Chairman)
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, JP
Dr Hon LUI Ming-wah, JP
Prof Hon NG Ching-fai
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Kwok-keung
Hon CHAN Yuen-han
Hon LEUNG Yiu-chung
Hon Howard YOUNG, JP
Hon Mrs Miriam LAU Kin-ye, JP
Hon Abraham SHEK Lai-him, JP
Hon WONG Sing-chi

Clerk in attendance :

Mrs Justina LAM Clerk to the House Committee

Staff in attendance :

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| Mr Ricky C C FUNG, JP | Secretary General |
| Mr LEE Yu-sung | Legal Adviser (Acting) |
| Mr LAW Kam-sang, JP | Deputy Secretary General |
| Ms Pauline NG | Assistant Secretary General 1 |

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| Mr Ray CHAN | Assistant Secretary General 3 |
| Miss Anita HO | Assistant Legal Adviser 2 |
| Miss Connie FUNG | Assistant Legal Adviser 3 |
| Mrs Vivian KAM | Chief Assistant Secretary (Complaints) |
| Miss Kathleen LAU | Chief Public Information Officer |
| Miss Salumi CHAN | Chief Assistant Secretary (1)5 |
| Mrs Constance LI | Chief Assistant Secretary (2)5 |
| Mrs Betty LEUNG | Chief Assistant Secretary (3)1 |
| Miss Betty MA | Senior Assistant Secretary (2)1 |

Action

**I. Confirmation of the minutes of the 29th meeting held on 25 May 2001
(LC Paper No. CB(2) 1657/00-01)**

The minutes were confirmed.

II. Matters arising

Report by the Deputy Chairman on his meeting with the Acting Chief Secretary for Administration (Ag CS)

Report of the Panel on Administration of Justice and Legal Services (AJLS Panel) on the applicability of ordinances to the offices set up by the Central People's Government (CPG) in the Hong Kong Special Administrative Region (HKSAR)

2. The Deputy Chairman said that he had conveyed to Ag CS, Mr Michael SUEN, Members' dissatisfaction with the slow progress of the action taken to adapt the laws of Hong Kong to apply them to CPG offices in the HKSAR. He had also informed Ag CS that if the Administration did not provide a satisfactory answer within the next two weeks, Members would consider holding a motion debate on the matter.

3. The Deputy Chairman further said that Ag CS had responded that a proposal on how to amend the 15 relevant Ordinances to apply them to the CPG offices in Hong Kong had been forwarded to the Central Government. The HKSAR Government was still awaiting a response. Ag CS also advised that the AJLS Panel would discuss the matter again at its next regular meeting on 26 June 2001, and that the Administration would report to the Panel the progress on the amendment of these 15 Ordinances and the other related issues in detail.

4. The Deputy Chairman invited Members' views on whether the House Committee should wait until the Administration had reported its

Action

progress to the Panel before deciding on the way forward, or whether the matter should be raised with CS despite the fact that the matter had already been raised with Ag CS. The Deputy Chairman also sought Members' views on Ms Emily LAU's proposal of the Chairman of the House Committee moving a motion on the matter for debate in Council.

5. Ms Emily LAU pointed out that the Administration had confirmed in 1998 that the 15 Ordinances concerned should, as a matter of policy, apply to the CPG offices in the HKSAR. She queried why it was necessary for the HKSAR Government to consult the Central Government on how to amend these 15 Ordinances. She also asked when the Central Government was consulted and what Ag CS's response was concerning the progress of the review of the Personal Data (Privacy) Ordinance. Ms LAU added that holding a motion debate in Council would convey a clear message on the importance of the matter to the Administration.

6. Ms Audrey EU said that the Chairman should raise the matter with CS again. Ms EU pointed out that under Article 22 of the Basic Law, all CPG offices and the personnel of these offices should abide by the laws of the HKSAR. Proposing amendments to the 15 Ordinances to apply them to the CPG offices was clearly a law drafting matter for the HKSAR. She could not see why the Central Government had to be consulted on how the 15 Ordinances concerned should be amended. Miss Margaret NG shared Ms EU's view.

7. While agreeing to Ms Emily LAU's proposal of holding a motion debate in Council, Miss Margaret NG said that the facts of the matter should be ascertained first. Regarding the amendment of the 15 Ordinances concerned, Miss NG pointed out that Ag CS's response was different from the information provided by the Administration to the AJLS Panel. At the Panel meeting on 15 May 2001, the Administration advised members that the relevant policy bureaux would take the matter forward so as to come up with an appropriate formulation to extend the applicability of the Ordinances to the CPG offices. Panel members were not told that a proposal on how to amend the 15 Ordinances had been put forward to the Central Government.

8. Ms Audrey EU and Miss Margaret NG enquired when the proposal on how to amend the 15 Ordinances was forwarded by the HKSAR Government to the Central Government and whether the proposal included the wording of the proposed amendments to the 15 Ordinances. The Deputy Chairman responded that Ag CS had not provided the details of the proposal. As regards the review of the Personal Data (Privacy) Ordinance, the Deputy Chairman said that Ag CS had reiterated that the Administration was still sorting out a few problems. He would raise the matter with CS again.

Action

9. Dr YEUNG Sum expressed support for the matter to be raised with CS again. He further said that it was a cardinal principle that all CPG offices should abide by the laws of the HKSAR. The amendment of the 15 relevant Ordinances was clearly a matter for the HKSAR and there was no need to consult the Central Government. Dr YEUNG added that the AJLS Panel should also follow up the matter.

10. Miss Margaret NG said that it was clear that the Administration had made little progress in the adaptation and amendment of the relevant Ordinances to apply them to the CPG offices, and that Ag CS had failed to provide a satisfactory response to Members' queries. She suggested that the Chairman of the House Committee should proceed to apply for a debate slot.

11. The Deputy Chairman informed Members that the respective deadlines for the submission of applications for the debate slots for the last two Council meetings on 4 July and 11 July 2001 were 14 June and 21 June 2001.

12. Ms Emily LAU suggested that the motion debate should be held on 4 July 2001, as the Agenda for the last meeting on 11 July 2001 was likely to be long. The Deputy Chairman pointed out that the deadline for notice of motions for the Council meeting on 4 July 2001 was 16 June 2001.

13. Mr IP Kwok-him said that if a motion was to be moved by the Chairman of the House Committee on behalf of Members, its wording would have to be agreed to by the House Committee first. As Members were not provided with the wording of the proposed motion, he considered it inappropriate for Members to be asked to take a decision on Ms LAU's proposal at the meeting.

14. Dr YEUNG Sum concurred with Mr IP. Dr YEUNG further said that although he supported the proposal of holding a motion debate on the matter, the proposal should be formally put on the agenda so that Members had prior notice that the matter would be discussed. He suggested that the matter should be considered at the next House Committee meeting on 8 June 2001.

15. Mr James TIEN agreed with Dr YEUNG that the matter should be discussed at the next House Committee meeting.

16. The Deputy Chairman said that the matter would be further considered at the next House Committee meeting on 8 June 2001. Members agreed. To facilitate Members' discussion at the next meeting, Ms Emily LAU suggested that the Secretariat should provide Members

Action

with the necessary background information. Miss Margaret NG pointed out that the AJLS Panel had earlier submitted to the House Committee a detailed report concerning the applicability of the laws of Hong Kong to the CPG offices in the HKSAR. Ms LAU said that the report should be re-issued to Members, if necessary. The Deputy Chairman instructed the Secretariat to prepare the draft wording of the proposed motion in consultation with Ms Emily LAU and Miss Margaret NG.

Report of the Panel on Constitutional Affairs on Hong Kong Special Administrative Region Precedence Table

17. The Deputy Chairman said that he had informed Ag CS that Members were not convinced that Principal Officials and Directors of Bureaux should be accorded higher precedence than Legislative Council (LegCo) Members on the Precedence Table. Ag CS had reiterated that under the Basic Law, although the Government of the HKSAR was accountable to LegCo, the Government was not subordinate to LegCo which provided checks and balances. Ag CS also said that the precedence of LegCo Members relative to other people on the Precedence Table did not compare unfavourably with that of the legislators in some other countries.

18. The Deputy Chairman further said that Ag CS had advised that the Chief Executive (CE) was aware of Members' views on the matter.

19. The Deputy Chairman reminded Members that as agreed at the last House Committee meeting, the Chairman of the House Committee would raise a question on the matter at the CE's Question and Answer Session on 14 June 2001.

20. Ms Emily LAU said that the precedence of LegCo Members on the Precedence Table after 1 July 1997 was worse off than in the colonial days. She expressed doubts as to whether the arrangement was conducive to improving the relationship between the Administration and LegCo.

III. Legal Service Division's report on bills referred to the House Committee in accordance with Rule 54(4)

The Ombudsman (Amendment) Bill 2001
(*LC Paper No. LS 103/00-01*)

21. Referring to the paper, the Acting Legal Adviser explained that the Bill aimed at making provisions to enable The Ombudsman to operate in a mode more independent of the Administration and to make it a

Action

corporation sole. This would enable The Ombudsman to have the capacity to sue and be sued, to acquire and hold property for office accommodation, to enter into contracts and to charge fees for services provided. The Acting Legal Adviser further explained that The Ombudsman would receive funds appropriated by LegCo and the way The Ombudsman expended his resources would be subject to examination by the Director of Audit. He added that the Bill also proposed other amendments such as adding provisions for preliminary inquiries, dealing with complaints by mediation, appointment of special advisers, and giving immunity against civil liabilities to persons performing functions or exercising powers under the Bill in good faith.

22. The Acting Legal Adviser informed Members that the Administration briefed the AJLS Panel on the proposals in the Bill on 26 April 2001. The Panel expressed support for the independence of The Ombudsman.

23. The Acting Legal Adviser further informed Members that the Legal Service Division was seeking further information on certain points in the Bill from the Administration and would provide a further report. He added that Members might wish to consider whether to form a Bills Committee to examine the Bill.

24. Miss Margaret NG suggested that a Bills Committee should be formed to study the proposed amendments in detail. Members agreed. The following Members agreed to join : Miss Margaret NG, Ms Emily LAU, Mr Andrew CHENG and Ms Audrey EU.

25. The Deputy Chairman said that the Bills Committee would be placed on the waiting list until a vacant slot was available.

IV. Business for the Council meeting on 13 June 2001

(a) Questions
(LC Paper No. CB(3) 715/00-01)

26. The Deputy Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 13 June 2001.

(b) Bills - First Reading and moving of Second Reading

(i) Hong Kong Court of Final Appeal (Amendment) Bill 2001

(ii) Import and Export (Electronic Transactions) Bill 2001

Action

**(iii) Medical and Health Care (Miscellaneous Amendments)
Bill 2001**

27. The Deputy Chairman said that the above three Bills would be introduced into the Council on 13 June 2001 and considered by the House Committee on 15 June 2001.

(c) Government motions

(i) Resolution under section 23(3) of the Road Traffic Ordinance (Cap. 374) - to be moved by the Secretary for Transport
(LC Paper No. LS 107/00-01)

28. Presenting the paper, the Acting Legal Adviser said that the object of the motion was to seek LegCo's approval to further extend, for five years up to 20 June 2006, the period during which the number of registered public light buses (PLB) might be limited. He pointed out that the Administration proposed to maintain the limit at the current level of 4 350 PLB. He added that the legal and drafting aspects of the motion were in order.

29. The Acting Legal Adviser added that the Panel on Transport had noted the Administration's proposal at its meeting on 25 May 2001.

30. Members did not raise any queries on the motion.

(ii) Resolution under section 29 of the Pharmacy and Poisons Ordinance (Cap. 138) - to be moved by the Secretary for Health and Welfare
(LC Paper No. LS 104/00-01)

31. Introducing the paper, the Acting Legal Adviser said that the motion sought LegCo's approval of the Pharmacy and Poisons (Amendment) (No.3) Regulation 2001 and the Poisons List (Amendment) (No.2) Regulation 2001. He explained that the two Amendment Regulations sought to add six new medicines to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations, in order that these medicines must be sold with prescriptions and in pharmacies under the supervision of registered pharmacists.

32. The Acting Legal Adviser further said that the motion and the two Amendment Regulations were legally in order.

Action

33. Members did not raise any queries on the motion and the two Amendment Regulations.

(d) **Members' motions**

(i) **Motion on "Reviewing the Mandatory Provident Fund System"**

34. The Deputy Chairman said that the motion would be moved by Mr CHAN Kwok-keung and the wording had been issued to Members.

(ii) **Motion on "Tenants Purchase Scheme"**

35. The Deputy Chairman said that the motion would be moved by Mr LAU Kong-wah and the wording had been issued to Members.

36. The Deputy Chairman reminded Members that the deadline for giving notice of amendments, if any, to the two motions was 6 June 2001.

V. Chief Executive's Question and Answer Session on 14 June 2001

37. The Deputy Chairman said that the CE's Question and Answer Session would start at 3:00 pm on Thursday, 14 June 2001. He added that as agreed at the last House Committee meeting, the Chairman, on behalf of the House Committee, would raise a question on the precedence of Members on the Precedence Table. He added that he had consulted the President on the arrangement.

VI. Advance information on business for the Council meeting on 20 June 2001

Bills - First Reading and moving of Second Reading

(a) **Road Traffic Legislation (Amendment) Bill 2001**

(b) **Landlord and Tenant (Consolidation)(Amendment) Bill 2001**

(c) **Human Organ Transplant (Amendment) Bill 2001**

38. The Deputy Chairman said that the two Bills would be introduced into the Council on 20 June 2001 and considered by the House Committee on 22 June 2001.

Action

VII. Bills Committee and subcommittee reports

Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 1663/00-01)

39. The Deputy Chairman said that there were 15 Bills Committees and five subcommittees in action. There were also six Bills Committee on the waiting list.

VIII. Paper of the Committee on Rules of Procedure

Consultation paper on Debate on the Policy Address

(LC Paper No. CB(1) 1369/00-01)

40. Mr TSANG Yok-sing, Chairman of the Committee on Rules of Procedure (CRoP), said that CRoP had been invited to review the current procedures in relation to the "Motion of Thanks", having regard to the function of LegCo to receive and debate the Policy Address of CE under Article 73(4) of the Basic Law.

41. Mr TSANG Yok-sing informed Members that CRoP had concluded that the present arrangement of debating the Policy Address upon a motion was not inconsistent with the Basic Law. CRoP also considered that the present wording of the motion should be retained, and that the motion should continue to be moved by the Chairman of the House Committee.

42. On the mode of debate on the Policy Address, Mr TSANG Yok-sing said that CRoP had made reference to the relevant practices in other jurisdictions and considered that structuring the debate by policy areas had the merits of making the debate more focused and efficient. CRoP had therefore issued a consultation paper to seek Members' views on the proposed six-day debate on the Policy Address. Under the proposed arrangement, after CE had delivered his Policy Address at the first Council meeting, the Chairman of the House Committee would move the motion at the second Council meeting and debate by specific policy areas would commence and continue for five consecutive days, except Saturday. Members would speak on the specific policy areas from 2:30 pm until a specified time, e.g. 9:00 pm, after which the Bureau Secretaries concerned would be expected to respond. CRoP also proposed that the debate on each group of policy areas should start on a new day, and that five groups of policy areas would have to be determined. On the sixth day, a general debate would take place. At the end of the debate, amendments, if any, would be moved and voted on. The motion, or motion as amended, would then be voted on.

Action

43. Mr TSANG Yok-sing pointed out that the proposed arrangement for debating the Policy Address would impose more pressure on Members as the debate would take a total of six days to complete. He stressed that to maintain a quorum throughout the six-day debate would require Members' full commitment.

44. Mr TSANG added that CROp had also recommended that the current practice of individual Panels holding special meetings to receive policy briefings from Bureau Secretaries concerned before the debate should be discontinued. Individual Panels might, if considered necessary, invite the Bureau Secretaries concerned to give policy briefings at a regular meeting at the beginning of a session.

45. Mr TSANG Yok-sing said that subject to any views Members might have, CROp would proceed to consult the Administration on the proposed arrangement. The plan was to implement the arrangement on a trial basis when the next session commenced in October 2001.

46. Dr YEUNG Sum expressed support for the new mode of debate on the Policy Address and the discontinuation of Panels holding special meetings to receive policy briefings from Bureau Secretaries before the debate. Dr YEUNG said that the proposed arrangement would enhance the role of LegCo in raising questions on the work of the Government and monitoring its performance. He added that he shared CROp's concern about the question of quorum. He said that Members should consider in detail the recommendations of CROp and suggested that a decision on the recommendations be deferred to the next meeting.

47. Ms Emily LAU said that she supported the new arrangement for debating the Policy Address, although she was of the view that the wording of the motion should be changed to "That this Council supports the Policy Address of the Chief Executive". She also expressed support for Dr YEUNG's suggestion of deferring a decision on the proposed arrangement to the next House Committee meeting so as to give Members more time to consider CROp's recommendations. To lessen the pressure on Members, Ms LAU added that the number of debate days could be reduced by, say, having two groups of policy areas debated on one day or specifying a time limit for each session of the debate.

48. Ms Emily LAU enquired whether the new arrangement for debating the Policy Address entailed amendments to the Rules of Procedure. Assistant Secretary General 1 responded that the new arrangement would entail amendments to the Rules of Procedure but the Secretariat was working out the most appropriate procedural arrangement for trying out the new mode of debate on the Policy Address in October

Action

2001. She said that the Secretariat was exploring the possibility of moving a motion to suspend the relevant rules for the purpose of the debate. She added that CRoP would further discuss the matter at its next meeting on 12 June 2001. Ms LAU said that Members should be kept informed of the work progress.

49. Ms Emily LAU further said that as the Administration had yet to be consulted on the new mode of debate on the Policy Address, she suggested that the Chairman of the House Committee should brief CS on CRoP's recommendations at their next regular meeting.

50. Mr James TIEN sought clarification on whether Members were allowed to make a speech of not more than seven minutes in each session of the debate. He also questioned the need to allocate six days for the debate. Mr TSANG Yok-sing responded that CRoP had proposed that a Member should not speak more than once in each session of the debate and in the general debate. As regards the speaking time, one possible option was to apply the seven-minute rule, but each Member would be allowed to select a group of policy areas on which he could speak for not more than 15 minutes. He added that CRoP had no strong views on the number of days required, and that Members' views were welcomed on this aspect.

51. Mr CHAN Kam-lam sought clarification on whether a Member could select more than one group of policy areas on which he could speak for not more than 15 minutes. Mr TSANG Yok-sing responded that CRoP had proposed that each Member would be allowed to speak not more than 15 minutes only once throughout the six-day debate on the Policy Address.

52. Mr James TIEN asked whether there was urgency in making a decision on the proposed arrangement. Miss Margaret NG said that as the plan was to implement the proposed arrangement on a trial basis when the next session commenced in October 2001, there was urgency in obtaining Members' agreement in principle to the new mode of debate on the Policy Address so that CRoP could proceed to consult the Administration on the proposed arrangement immediately.

53. Mr Andrew WONG said that the proposed arrangement could not be implemented unilaterally and the Administration should be consulted as early as practicable. He was of the view that the grouping of policy areas should not be "pre-determined", but should be discussed and decided by the House Committee after CE had delivered the Policy Address. In so doing, Members' debate could focus on the main areas of public concern. He added that the number of debate days should be reduced, hence the attendance of Members would less likely be a problem.

Action

54. Dr YEUNG Sum agreed that CRoP should proceed to consult the Administration on the proposed arrangement on the understanding that the House Committee would make a decision on CRoP's recommendations at the meeting on 8 June 2001.

55. Mr James TIEN said that he had no objection to CRoP proceeding to consult the Administration.

56. The Deputy Chairman said that the House Committee would make a decision on the recommendations set out in the paper at the next meeting. He added that CRoP could proceed to consult the Administration in the meantime.

IX. Any other business

57. There being no further business, the meeting ended at 5:40 pm.

Legislative Council Secretariat
6 June 2001