

**立法會**  
**Legislative Council**

LC Paper No. CB(2) 406/00-01

Ref : CB2/H/5

**House Committee of the Legislative Council**

**Minutes of the 9<sup>th</sup> meeting  
held in the Legislative Council Chamber  
at 4:25 pm on Friday, 1 December 2000**

**Members present :**

Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Chairman)  
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  
Ir Dr Hon Raymond HO Chung-tai, JP  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Hon Eric LI Ka-cheung, JP  
Hon NG Leung-sing  
Prof Hon NG Ching-fai  
Hon Margaret NG  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon HUI Cheung-ching  
Hon CHAN Kwok-keung  
Hon CHAN Yuen-han  
Hon Bernard CHAN  
Hon CHAN Kam-lam  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon LEUNG Yiu-chung  
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  
Hon Howard YOUNG, JP  
Dr Hon YEUNG Sum  
Hon YEUNG Yiu-chung



Mr Ray CHAN	Assistant Secretary General 3
Ms Bernice WONG	Assistant Legal Adviser 1
Miss Connie FUNG	Assistant Legal Adviser 3
Mr KAU Kin-wah	Assistant Legal Adviser 6
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mr Andy LAU	Chief Assistant Secretary (1)2
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Betty MA	Senior Assistant Secretary (2)1

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**I. Confirmation of the minutes of the 8th meeting held on 24 November 2000**

*(LC Paper No. CB(2) 364/00-01)*

The minutes were confirmed.

**II. Matters arising**

**(a) Report by the Chairman on her meeting with the Chief Secretary for Administration (CS)**

2. The Chairman said that she had relayed to CS Members' disappointment at the Chief Executive (CE)'s refusal to attend a Question and Answer Session to brief Members on his recent visits to Beijing and London. She further said that CS had agreed to convey Members' views to CE.

3. The Chairman informed Members that at the House Committee's request, the Administration had withdrawn the notice for moving the resolution under section 42 of the Occupational Safety and Health Ordinance at the Council meeting on 6 December 2000.

4. The Chairman said that she had raised with CS Mr IP Kwok-him's proposal of freezing the honorarium and accountable allowance for District Council (DC) members. CS's initial response was that even if it was considered necessary to review the existing mechanism for adjusting the honorarium and accountable allowance for DC members, the mechanism should be adhered to and could not be simply set aside. CS had pointed out that the same was done in the case of Legislative Council (LegCo) Members. CS had also said that the Administration was willing to conduct the review, and that the proposal to freeze the honorarium and allowance would have to be justified.

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**(b) Hon IP Kwok-him's letter of 20 November 2000 on adjustment of honorarium and accountable allowance of District Council members**

*(Hon IP Kwok-him's letter issued vide LC Paper No. CB(2) 325/00-01 dated 22 November 2000)*

*(LC Paper No. FC 19/00-01)*

5. Referring to Mr LEUNG Yiu-chung's question raised at the last meeting on whether the Administration had given any reasons for adjusting the honorarium and accountable allowance according to the movement of the Consumer Price Index (CPI) (C), the Secretary General said that the Finance Committee paper (Item 41 in 1992-93) which was discussed on 24 July 1992 proposed that the honorarium should be revised by reference to the movement in the Hang Seng Consumer Price Index "in order that the level of District Board honorarium can be adjusted to reflect price increases". As for the Finance Committee paper (FCR(95-96)136) considered on 8 March 1996, it was stated that "in order to preserve the value of the allowance", the Administration proposed to revise it annually in line with the movement of the Hang Seng Consumer Price Index.

6. Assistant Secretary General 1 (ASG1) said that the LegCo Secretariat had prepared a paper setting out the legal basis and procedure for withdrawing the authority delegated to the Secretary for the Treasury for adjusting the honorarium and accountable allowance for DC members.

7. Mr Andrew WONG said that he agreed with the legal advice given in paragraph 4 of the paper. However, he had reservations as to whether Members could withdraw the authority delegated by the Finance Committee to the Secretary for the Treasury to adjust the honorarium and accountable allowance annually by reference to the movement of the CPI(C). He pointed out that the authority delegated to the Secretary for the Treasury on 2 July 1999 was part and parcel of the Administration's proposal on the honorarium and accountable allowance for DC members. As all financial proposals must come from the Administration under the Public Finance Ordinance, it was doubtful whether Members could unilaterally amend part of the Administration's financial proposal after it had been approved by the Finance Committee on 2 July 1999, without the agreement of the Administration. Mr WONG also questioned whether the legal basis for amending or repealing a delegation under section 44 of the Interpretation and General Clauses Ordinance was also applicable to financial proposals from the Administration under the Public Finance Ordinance.

8. The Legal Adviser clarified that a repeal of delegation under section 8(3) of Public Finance Ordinance would only relate to the subject

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of delegation which was the power to approve proposed revisions made to the honorarium and allowances by reference to the movement of CPI(C) in this case.

9. The Chairman said that the Administration had expressed concern about the application of section 44 of the Interpretation and General Clauses Ordinance to the Administration's financial proposals. She added that the Administration was examining the issue.

10. Mr IP Kwok-him said that he was very disappointed at CS's response. He pointed out that the salaries of civil servants were frozen in the past two years through administrative means. He hoped that the Administration would take the initiative to freeze the honorarium and accountable allowance for DC members. He informed Members that if the Administration's response to his proposal was in the negative, he would consider moving a motion at a Finance Committee meeting to repeal the authority delegated to the Secretary for the Treasury, although he would be very reluctant to resort to such a course of action.

11. Dr YEUNG Sum said that Members were in general agreement that the accountable allowance for DC members should be frozen. He considered that the question was how to put forward the proposal to the Administration. On the issue of withdrawing the authority delegated to the Secretary for the Treasury, Dr YEUNG cautioned that Members should have regard to the message conveyed to the public, given that those LegCo Members who were also DC members had direct pecuniary interest in the matter.

12. Dr YEUNG Sum considered that there were three other possible options in dealing with Mr IP's proposal, in addition to withdrawing the authority delegated to the Secretary for the Treasury. The first option was to request the Administration to review the annual revision mechanism. The second option was to accept the reduction in rates in accordance with the downward movement of the CPI(C). The third option was to await the Administration's response to the proposal to freeze the honorarium and accountable allowance before deciding on the way forward.

13. Mr NG Leung-sing said that he would support the request for a review of the annual revision mechanism of the honorarium and accountable allowance for DC members. He was of the view that Members should not consider withdrawing the authority delegated to the Secretary for the Treasury, as this would give the public a very negative message.

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14. Miss Margaret NG commented that the statements made in the Finance Committee papers of 1992 and 1996 in respect of the annual revision mechanism quoted by the Secretary General were open to interpretation. She said that "to preserve the value of the allowance" could mean that the allowance should not be adjusted downwards.

15. Mr James TIEN disagreed with Miss Margaret NG's view. He said that "to preserve the value of the allowance" meant to preserve the "buying power" of the allowance and hence its rates should follow the movement of the CPI(C) which could move upward or downward.

16. Mr James TIEN further said that the existing mechanism of adjusting the honorarium and accountable allowance according to the movement of CPI(C) should be adhered to, until the Administration had completed its review. As for the accountable allowance, Mr TIEN said that the present amount of \$10,000 was insufficient as the DCs had taken on an enhanced role after the abolition of the two municipal councils. He supported the proposed freeze of the accountable allowance, pending a review aiming at increasing the allowance to \$15,000 to \$20,000, so that DC members could provide better service for the districts.

17. Miss Margaret NG said that the Administration should be invited to clarify the policy intention of the annual adjustment mechanism to the Panel on Home Affairs. She also sought clarification on the effect of withdrawing the authority delegated to the Secretary for the Treasury. The Legal Adviser advised that the effect would be that the honorarium and accountable allowance for DC members would continue to be paid at the current rates, until the relevant financial provisions in the approved estimates for the current financial year were exhausted.

18. Mr Fred LI considered it difficult for Members to reach a consensus on whether the authority already delegated to the Secretary for the Treasury should be withdrawn. He proposed that the Secretary for the Treasury should be asked to freeze the honorarium and accountable allowance for DC members only on this occasion, pending the outcome of the review of the adjustment mechanism.

19. Dr YEUNG Sum proposed that the Chairman of the House Committee be requested to reflect Members' views on the issue to CS. Members would then consider the way forward after the Administration had given a response. Mr James TIEN concurred.

20. Referring to his letter of 20 November 2000, Mr IP Kwok-him explained that his request was in fact three-fold. In addition to proposing that the Administration should conduct a review on the annual revision mechanism, he had proposed that both the honorarium and accountable

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allowance for DC members should be frozen, pending the review of the adjustment mechanism. Mr IP requested that a vote be taken on each of these proposals.

21. Mr Eric LI, Mr NG Leung-sing and Mr Henry WU disagreed that a vote should be taken. Mr NG considered that there was a conflict of interest for the 19 Members who were also DC members to take part in the voting as they had a direct pecuniary interest in the matter.

22. Mr Henry WU said that some DC Members had expressed concern that the focus should not be on a freeze of the current rate but rather on seeking an increase in the accountable allowance to enable DC members to provide better service for the districts. Mr WU added that he would prefer to await the Administration's response.

23. Mr Eric LI said that he would only support freezing the accountable allowance for DC members. However, as the Administration had agreed to review the adjustment mechanism, he objected to Mr IP's request that a vote should be taken. He considered that this would give the public a very negative impression that LegCo Members were pursuing their own pecuniary interests as some of them were also DC members.

24. Mr CHAN Kam-lam and Mr IP Kwok-him responded that the honorarium was not remuneration as such but rather it was a form of allowance for DC members.

25. In response to the Chairman, the Legal Adviser advised that Rule 84(1) of the Rules of Procedure stipulated that Members should not vote on a question in which they had direct pecuniary interest, unless their interest in the matter was in common with a sector of the population of Hong Kong, or the question was on a matter of Government policy. The issues under discussion could be considered as a matter of Government policy.

26. The Chairman said that it would be for individual Members to decide whether they should vote, having regard to Rule 84(1) of the Rules of Procedure.

27. The Chairman said that as Members did not express any dissenting view on the proposal that the Administration should conduct a review on the annual revision mechanism, she would convey to CS that Members had a consensus view on the proposed review. Mr James TIEN stressed that the review should be objective and not have any pre-set conditions.

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28. The Chairman asked whether any Member objected to Mr IP's second proposal of freezing the honorarium for DC members, pending the outcome of the review. Four Members objected to the proposal.

29. Mr IP Kwok-him requested that a vote be taken on the proposal. Referring to Mr IP's letter of 20 November 2000, the Chairman responded that her understanding was that if Members had a consensus on the proposed freeze, she would convey such consensus view to the Administration. As some Members had expressed dissenting views, she would regard that there was no consensus on the proposal. She did not consider that a vote was necessary.

30. Mr IP Kwok-him clarified that if a majority of Members supported his proposal, such a view should be conveyed to CS. Mr Eric LI said that even if a majority of Members supported Mr IP's proposal, it could not be taken to be a consensus view of the House Committee.

31. Dr YEUNG Sum and Mr LAW Chi-kwong suggested that the Chairman be asked to reflect to CS the majority view, if the majority of Members supported the proposed freeze. Members agreed.

32. The Chairman put to vote the question that the honorarium for DC members should be frozen.

33. Mr Henry WU declared that he was a DC member and would not vote on Mr IP's proposal.

34. Dr YEUNG Sum said that to avoid a potential conflict of interest, Members belonging to the Democratic Party who were also DC members would not vote. Mr CHEUNG Yu-yan added that Members belonging to the Liberal Party who were also DC members would not vote on the proposal. Mr CHAN Kam-lam, Mr WONG Yung-kan, Miss CHOY So-yuk, Dr TANG Siu-tong and Mr IP Kwok-him declared that they were DC members and would not take part in the voting.

35. The Chairman declared that the result of the vote was 15 Members voted for the proposal to freeze the honorarium for DC members, four Members voted against the proposal and two Members abstained.

36. The Chairman invited Members' views on Mr IP's proposal that the accountable allowance for DC members should be frozen. No Member raised any dissenting views.

37. The Chairman concluded that it was the House Committee's consensus view that the Administration should review the existing mechanism of adjusting annually the honorarium and accountable

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allowance for DC members according to the movement of CPI(C). She added that the House Committee also had a consensus that the accountable allowance for DC members should be frozen. She further said that although Members did not have a consensus that the current rate of the honorarium should be frozen, the majority of Members who voted were in support of the proposal. She said that she would relay the above to CS at their meeting on Monday.

**III. Business arising from previous Council meetings**

**(a) Legal Service Division's reports on bills referred to the House Committee in accordance with Rule 54(4)**

**(i) Securities and Futures Bill**  
*(LC Paper No. LS 31/00-01)*

**(ii) Banking (Amendment) Bill 2000**  
*(LC Paper No. LS 30/00-01)*

38. Introducing the papers, the Legal Adviser said that the Securities and Futures Bill was a colossal bill consolidating 10 existing ordinances into one single ordinance to provide for a new regulatory regime for the securities and financial industry, and to provide protection and compensation for investors. He added that the Bill was previously published in the form of a White Bill for consultation. The Schedule to LC Paper No. LS 31/00-01 provided a comparison of the amended provisions relating to penalties for offences in the Bill and those in the White Bill. In view of the complexity of the Bill and its far-reaching implications on the securities and futures market, the Legal Adviser proposed that a Bills Committee should be formed to scrutinize the Bill.

39. The Legal Adviser further said that the new regulatory regime to be inaugurated after the enactment of the Securities and Futures Bill would apply to exempt authorized institutions under the supervision of the Hong Kong Monetary Authority. To facilitate such application, the Banking (Amendment) Bill 2000 was introduced by the Administration at the same time. The Legal Adviser advised that it would be for Members to decide whether the Banking (Amendment) Bill 2000 and the Securities and Futures Bill should be studied by one Bills Committee.

40. Mr SIN Chung-kai suggested that one Bills Committee should be formed to study both Bills as they were interrelated. Mr Henry WU expressed support for the suggestion.

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41. The Chairman proposed that one Bills Committee should be formed to study both Bills. Members agreed. The following Members agreed to join : Mr Albert HO (as advised by Mr SIN Chung-kai), Mr NG Leung-sing, Mr James TO (as advised by Mr SIN Chung-kai), Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr TSANG Yok-sing (as advised by Mr IP Kwok-him), Mr Abraham SHEK Lai-him and Mr Henry WU.

**(b) Legal Service Division's report on subsidiary legislation tabled in Council on 29 November 2000 (gazetted on 24 November 2000)**

*(LC Paper No. LS 29/00-01)*

42. Referring to the report, the Legal Adviser said that a total of 15 items of subsidiary legislation were gazetted on 24 November 2000. Of these, 12 items were related to revision of fees and charges which would take effect on 12 January 2001. The Legal Adviser added that the relevant Panels had been consulted on the proposed fee revisions in the last term, and there had been queries on certain fee increase proposals relating to court services.

43. On the Dangerous Drugs Ordinance (Amendment of First Schedule) (No.2) Order 2000, the Legal Adviser explained that the effect of the Order was that the import and export of ketamine, like other dangerous drugs, would require a licence from the Director of Health, and that the illicit trafficking, manufacture, supply or possession of ketamine would become an offence under the Dangerous Drugs Ordinance and carry severe penalties. He said that the Order would come into operation on 15 December 2000.

44. Regarding the Mandatory Provident Fund Schemes (Compensation Claims) Rules and the Mandatory Provident Fund Schemes (Winding Up) Rules, the Legal Adviser said that both Rules dealt with procedural matters and the drafting and legal aspects were in order. He added that the Rules would come into operation on 1 December 2000.

45. Mr James TIEN said that the proposed increase in fees and charges should be studied in detail. The Chairman proposed that a subcommittee should be formed to study the subsidiary legislation relating to fees and charges. Members agreed. The following Members agreed to join : Mr James TIEN, Mr Fred LI Wah-ming, Mr CHAN Kam-lam and Mr SIN Chung-kai.

46. With regard to the Dangerous Drugs Ordinance (Amendment of First Schedule) (No.2) Order 2000, Mr LAW Chi-kwong requested that the Legal Service Division should seek clarification from the Department of Health on whether there were drugs, other than dangerous drugs, which

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might contain a small amount of ketamine and whether these drugs would also be brought under control under the Dangerous Drugs Ordinance. Mr LAW expressed concern that persons who had already placed orders for the import of such drugs might be caught by the Order in view of its impending commencement date.

47. The Chairman said that the Dangerous Drugs Ordinance (Amendment of First Schedule) (No.2) Order 2000 warranted a detailed study because of the severe penalties involved. The Chairman proposed that a subcommittee should be formed to study the Order. Members agreed. The following Members agreed to join: Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mr LAW Chi-kwong and Mr IP Kwok-him.

48. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 20 December 2000, or 10 January 2001 if extended by resolution.

**IV. Business for the Council meeting on 13 December 2000**

(a) **Questions**

*(LC Paper No. CB(3) 199/00-01)*

49. The Chairman said that 20 questions (six oral and 14 written) had been scheduled.

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

**Employment (Amendment) (No. 2) Bill 2000**

50. The Chairman said that the Bill would be introduced into the Council on 13 December 2000 and considered by the House Committee on 15 December 2000.

(c) **Government motion**

51. The Chairman said that no notice had been received from the Administration.

(d) **Members' Bills - First Reading and moving of Second Reading**

**Prior of the Order of Cistercians of the Strict Observance  
Incorporation (Amendment) Bill 2000**

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52. The Chairman said that the Bill would be introduced by Mr Ambrose LAU into the Council on 13 December 2000 and considered by the House Committee on 15 December 2000.

(e) **Members' motions**

(i) **Motion on "Drug abuse among young persons"**

53. The Chairman said that the wording of Mr James TO Kun-sun's motion had been circulated to Members.

(ii) **Motion on "Deposit insurance system"**

54. The Chairman said that the wording of Mr Albert HO Chun-yan's motion had been circulated to Members.

55. The Chairman added that the deadline for giving notice for amendments was 6 December 2000. She further suggested and Members agreed that the speaking time limits in rule 17(c) of the House Rules should apply.

**V. Advance information on business for the Council meeting on 20 December 2000**

**Government motions**

(a) **Resolution under section 40 of the Pneumoconiosis (Compensation) Ordinance (Cap. 360) - to be moved by the Secretary for Education and Manpower**

56. The Chairman said that the Legal Service Division's report on the Resolution would be discussed at the next House Committee meeting on 8 December 2000.

(b) **Motion to be moved by the Secretary for Security**

57. The Chairman said that the Secretary for Security had given notice to move a motion on the Public Order Ordinance for debate at the Council meeting on 20 December 2000.

58. The Chairman added that apart from the above two motions, CS had given notice to move a motion under the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China regarding the appointment of the Chief Judge of the High Court, at the Council meeting on 20 December 2000.

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**VI. Bills Committee and subcommittee reports**

(a) **Position report on Bills Committees/subcommittees**  
(LC Paper No. CB(2) 374/00-01)

59. The Chairman said that there were nine Bills Committees and three subcommittees in action.

(b) **Report of the Subcommittee on subsidiary legislation relating to revision of fees and charges gazetted on 10 November 2000**  
(LC Paper No. CB(2) 373/00-0)

60. Mr James TIEN, Chairman of the Subcommittee, reported that the Subcommittee could not reach a consensus on the proposed revision of fees and charges which were gazetted on 10 November 2000. He said that some Members had indicated that they did not agree to the proposed increases but had no objection to the proposed decreases. Mr James TIEN added that should any Member wish to amend or repeal any of subsidiary legislation at the Council meeting on 13 December 2000, the deadline for giving notice was 6 December 2000.

**VII. Restructuring of Panels**

(LC Paper No. CB(1) 236/00-01)

61. Introducing the paper, ASG1 said that all the 17 existing Panels had been consulted and they agreed to the proposed technical amendments to their respective terms of reference. As regards the new Panel on Food Safety and Environmental Hygiene, ASG1 said that the Administration had suggested that the proposed terms of reference should include issues relating to agriculture and fisheries. ASG1 added that subject to Members' agreement, the Chairman of the House Committee would move a resolution to seek the Council's approval for the various changes at the meeting on 20 December 2000.

62. The Chairman invited Members to endorse the arrangements in paragraphs 6 and 7 of the paper concerning the setting up of the new Panel on Food Safety and Environmental Hygiene and the signification of membership of the Panels concerned. She informed Members that as changes were proposed to the terms of reference of the Panel on Economic Services and the Panel on Commerce and Industry, the membership of these Panels would also be reopened to Members. She said that Members who wished to join these Panels should signify their membership on or before 29 December 2000. Members raised no objection to the proposed arrangements.

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**VIII. Any other business**

63. Mr James TIEN said that he would like to raise the issue of the precedence of LegCo Members on the Precedence List at the next meeting. The Chairman requested the Secretariat to provide a paper on the background of the current arrangement to facilitate Members' discussion.

64. There being no further business, the meeting ended at 6:05 pm.

Legislative Council Secretariat  
6 December 2000