

立法會
Legislative Council

LC Paper No. CB(2) 998/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 19th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 2 March 2001**

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 David CHU Yu-lin

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 LEUNG Yiu-chung

Hon SIN Chung-kai

Hon Andrew WONG Wang-fat, JP

Hon Howard YOUNG, JP

Dr Hon YEUNG Sum

Hon LAU Chin-shek, JP

Hon LAU Kong-wah

Hon Andrew CHENG Kar-foo

Hon SZETO Wah

Hon LAW Chi-kwong, JP

Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Henry WU King-cheong, BBS
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent :

Hon James TIEN Pei-chun, JP
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, JP
Dr Hon LUI Ming-wah, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Hon YEUNG Yiu-chung
Hon LAU Wong-fat, GBS, JP
Hon Mrs Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Albert CHAN Wai-yip
Hon LAU Ping-cheung

Clerk in attendance :

Mrs Justina LAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP Secretary General

Mr Jimmy MA, JP	Legal Adviser
Mr LAW Kam-sang, JP	Deputy Secretary General
Mr LEE Yu-sung	Senior Assistant Legal Adviser
Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Ms Bernice WONG	Assistant Legal Adviser 1
Miss Anita HO	Assistant Legal Adviser 2
Miss Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mr Andy LAU	Chief Assistant Secretary (1)2
Mrs Florence LAM	Chief Assistant Secretary (1)4
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 18th meeting held on 23 February 2001

(LC Paper No. CB(2) 952/00-01)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that she had written to Mr Donald TSANG, CS (Designate), and Mr Antony LEUNG, Financial Secretary (Designate), inviting them to separately attend a meeting of the House Committee. Both Mr TSANG and Mr LEUNG had just replied declining the invitation. The Chairman added that the letters from Mr TSANG and Mr LEUNG enclosing their respective curriculum vitae were tabled at the meeting.

3. In response to Mr LAU Chin-shek's query why the letters were in English only, the Chairman said that she would raise with CS that papers and letters should be provided in both Chinese and English.

III. Business arising from previous Council meetings

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

(i) **Dutiable Commodities (Amendment) Bill 2001**
(LC Paper No. LS 62/00-01)

4. Introducing the report, the Legal Adviser explained that the Bill sought to enable the Commissioner of Customs and Excise to process dutiable commodity permit (DCP) applications electronically via the service of a specified electronic service provider. He also drew Members' attention to the proposed Dutiable Commodities (Amendment) Regulation which, among other things, provided that an application for DCP must be in electronic form. The Regulation also empowered the Commissioner to revert to paper mode if necessary.

5. The Legal Adviser further explained that according to the Legislative Council (LegCo) Brief on the Bill, the Tradelink Commerce Ltd. had an exclusive franchise to provide front-end services for the processing by electronic data interchange (EDI) of six official trade-related documents. EDI services for four trade-related documents had already been launched and the relevant Ordinances had been amended. The Bill was one of a series of legislative proposals on the use of EDI. The Legal Adviser added that according to the Administration, another bill would be introduced in April 2001 to amend the Import and Export Ordinance to provide for the EDI of cargo manifest.

6. The Legal Adviser further said that the Panel on Commerce and Industry was briefed on the main proposals of the Bill on 8 January 2001. One Panel member had expressed concern about the charges and that there would be monopoly by Tradelink. The Legal Adviser informed Members that Legal Service Division was seeking clarification from the Administration on certain legal and drafting aspects. It would be for Members to decide whether to first set up a Bills Committee or defer the decision pending the further report.

7. Mr CHAN Kam-lam said that a Bills Committee should be formed to study the Bill. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr James TIEN (as advised by the Chairman), Mr Kenneth TING, Mr HUI Cheung-ching, Mr CHAN Kam-lam and Mr SIN Chung-kai (as advised by Dr YEUNG Sum).

(ii) **Fixed Penalty (Public Cleanliness Offences) Bill**
(LC Paper No. LS 63/00-01)

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8. Presenting the paper, the Legal Adviser said that the Bill sought to introduce a fixed penalty system for minor public cleanliness offences which included unauthorised display of bills or posters, depositing of litter or waste in public places and spitting in public places. The proposed fixed penalty for these offences was \$600 which could be increased by resolution of the Council.

9. The Legal Adviser added that the Panel on Food Safety and Environmental Hygiene was briefed on the legislative proposal on 8 January 2001. While the Panel generally supported the proposal, some members suggested that the penalty level should be lowered and that the proposed fixed penalty system should be extended to other public cleanliness offences such as dog fouling. The Legal Adviser said that Members might also wish to examine the enforcement aspects of the Bill and recommended that a Bills Committee be formed.

10. Mr CHAN Kam-lam said that a Bills Committee should be formed as the Bill dealt with matters of public concern. Dr YEUNG Sum concurred with Mr CHAN.

11. The Chairman proposed that a Bills Committee be set up to study the Bill. Members agreed. The following Members agreed to join : Mr Fred LI, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Mr Andrew CHENG, Mr Tommy CHEUNG, Mr Michael MAK, Mr WONG Sing-chi (as advised by Dr YEUNG Sum), Mr IP Kwok-him and Ms Audrey EU.

12. The Chairman added that the Bills Committee would be placed on the waiting list until a vacant slot was available.

**(iii) Public Health and Municipal Services (Amendment)
Bill 2001**

(LC Paper No. LS 64/00-01)

13. Referring to the report, the Legal Adviser said that the Bill aimed at tightening control of unlicensed and unhygienic food establishments. It sought to establish a new enforcement mechanism so that a direct application could be made to the court for an order to close an unlicensed food establishment. The Bill also added a new provision to enable the Director of Food and Environmental Hygiene (DFEH) to close a food establishment which posed an immediate health hazard, without recourse to court proceedings.

14. The Legal Adviser further said that the Panel on Food Safety and Environmental Hygiene was briefed on the proposals at its meeting on 8 January 2001. Although the Panel supported the proposals in principle,

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some members had expressed concern about the procedural safeguards against possible abuse by DFEH.

15. The Legal Adviser added that the Legal Service Division had raised certain queries on the legal and drafting points of the Bill and that the Division was still studying the Administration's response to these queries. The Legal Adviser recommended that a Bills Committee should be formed to examine the Bill in detail both from the policy and legal points of view.

16. Mr Tommy CHEUNG said that the industry had expressed concern about the proposals in the Bill. He was in favour of setting up a Bills Committee. Dr YEUNG Sum expressed support for a Bills Committee to be formed.

17. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr Fred LI, Mr WONG Yung-kan (as advised by Mr IP Kwok-him), Mr Andrew CHENG, Mr Tommy CHEUNG, Mr WONG Sing-chi (as advised by Dr YEUNG Sum) and Ms Audrey EU.

18. The Chairman added that the Bills Committee would be placed on the waiting list until a vacant slot was available.

(b) **Legal Service Division's report on subsidiary legislation tabled in Council on 28 February 2001 (gazetted on 23 February 2001)**

(LC Paper No. LS 65/00-01)

19. The Legal Adviser said that only one item of subsidiary legislation, the Merchant Shipping (Registration) (Fees and Charges) (Amendment) Regulation 2001, was tabled in Council on 28 February 2001. He explained that the Amendment Regulation introduced a technical amendment on the percentage of the amount payable in respect of a provisionally registered ship. The effect was that the amount of annual tonnage charge payable per month would be the same as the average monthly amount payable on a three months' basis under the existing provision. The Amendment Regulation also aimed to disallow the deduction of the amount paid for the provisional registration of a ship from the amount payable for the subsequent full registration of the ship.

20. The Legal Adviser added that the Legal Service Division was of the view that the legal and drafting aspects of the Amendment Regulation were in order.

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21. Members did not raise any query on the subsidiary legislation. The Chairman said that Mrs Miriam LAU, who was unable to attend the meeting, might wish to consult the industry concerned.

22. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 28 March 2001, or 4 April 2001 if extended by resolution in the Council.

IV. Business for the Council meeting on 14 March 2001

(a) Questions

(LC Paper No. CB(3) 464/00-01)

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

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

(i) Interest Rates (Miscellaneous Amendments) Bill 2001

(ii) Industrial Training (Construction Industry) (Amendment) Bill 2001

(iii) Merchant Shipping (Registration) (Amendment) Bill 2001

24. The Chairman said that the above three Bills would be introduced into the Council on 14 March 2001 and considered by the House Committee on 16 March 2001.

(c) Government motion

Proposed resolution under section 7(1) of the Public Finance Ordinance (Cap. 2) - to be moved by the Secretary for the Treasury

(LC Paper No. LS 66/00-01)

25. Referring to the report, the Legal Adviser said that the motion was made in accordance with section 7(1) of the Public Finance Ordinance. The purpose of the motion was to seek funds on account to enable the Government to carry on existing services between the start of the financial year on 1 April 2001 and the enactment of the Appropriation Ordinance. The Legal Adviser further explained that the funds on account sought under each subhead were calculated in percentage terms by reference to

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the provisions shown in the 2001-02 draft Estimates of Expenditure. Expenditure in respect of a Recurrent Account subhead and a Capital Account subhead should normally not exceed 20% and 100% respectively of the provisions shown in the draft Estimates. The Legal Adviser added that Financial Secretary was empowered to vary the fund on account in respect of any subhead, provided that the varied amount did not exceed the provision shown in respect of that subhead in the draft Estimates.

26. Members did not raise any query on the proposed resolution.

(d) Members' motions

(i) Motion on "Consultation Document on Health Care Reform"

27. The Chairman said that as agreed at the last meeting on 23 February 2001, she would move the motion at the Council meeting on 14 March 2001. She added that as the motion was couched in neutral terms, it was also agreed that no amendment should be proposed to the motion.

(ii) Motion on "Alleviating the difficulties of small and medium enterprises"

28. The Chairman said that the above motion would be moved by Hon HUI Cheung-ching and the wording had been issued to Members. She reminded Members that the deadline for giving notice of amendments, if any, to Mr HUI Cheung-ching's motion was 7 March 2001.

29. The Chairman proposed and Members agreed that the speaking time limits in rule 17 (b) of the House Rules would apply to the two debates on Members' motions.

V. Bills Committee and subcommittee reports

(a) Position report on Bills Committees/subcommittees
(LC Paper No. CB(2) 956/00-01)

30. The Chairman said that there were 14 Bills Committees and four subcommittees in action. She added that the Bills Committee on Hong Kong Tourist Association (Amendment) Bill 2001 had completed work and would report under item V(b) below. As there was a vacant slot, the Bills Committee on Fire Safety (Buildings) Bill on the waiting list would be activated.

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31. Mr Eric LI, Chairman of the Bills Committee on Inland Revenue (Amendment) Bill 2000, said that the Bills Committee had identified a number of problems with the anti-avoidance safeguards proposed in the Bill and had requested the Administration to further discuss the problems with concerned parties. Based on the latest progress, the Administration had advised that it could only report back to the Bills Committee in mid-May at the earliest. Mr LI suggested that consideration of the Bill be held in abeyance pending the Administration's response, so that the slot could be taken up by another Bills Committee on the waiting list.

32. The Chairman proposed that consideration of the Inland Revenue (Amendment) Bill 2000 be held in abeyance, and that the slot be allocated to the Dutiable Commodities (Amendment) Bill 2001. Members agreed.

(b) Report of the Bills Committee on Hong Kong Tourist Association (Amendment) Bill 2001

(LC Paper No. CB(1) 677/00-01)

33. Introducing the report, Mr Howard YOUNG, Chairman of the Bills Committee, said that the Bill was not controversial and that the 24 written submissions from the travel and tourism industry all expressed support for the Bill. The Bills Committee's discussion was mainly focused on the composition of the proposed Hong Kong Tourism Board as members were concerned that there should be a balanced representation of the relevant sectors.

34. Mr YOUNG further said that the Administration had agreed to introduce Committee Stage amendments (CSAs) as proposed by the Bills Committee to improve the wording of certain provisions and also to make clear that there would be one representative on the Board for each of the trades of "licensed travel agent", "tour operator", "retailer" and "restaurant operator".

35. Mr YOUNG added that the Bills Committee supported the resumption of Second Reading debate on the Bill on 14 March 2001.

36. The Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 5 March 2001.

(c) Report of the Subcommittee on Prevention of Copyright Piracy (Notices) Regulation

(LC Paper No. CB(1) 679/00-01)

37. Mr Kenneth TING, a member of the subcommittee, introduced the report on behalf of the Subcommittee Chairman, Mr Timothy FOK.

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38. Mr Kenneth TING said that the subcommittee was concerned that the wording of the notice should clearly reflect the effect of section 31C of the Prevention of Copyright Privacy Ordinance, i.e. it was an offence to possess video recording equipment without authorisation in a place of public entertainment. The subcommittee also considered that the Chinese version of Regulation 3 did not fully reflect the meaning of its English version in relation to the "locations" where the notices were to be displayed. Mr TING also drew Members' attention to the revised report tabled at the meeting. He explained that paragraphs 3 and 8 of the subcommittee's report had been slightly amended to spell out more clearly the offence under section 31C of the Ordinance.

39. Mr Kenneth TING further said that the Administration had agreed to move a motion at the Council meeting on 14 March 2001 to amend the Regulation to address the subcommittee's concerns. If the Administration's motion to amend the Regulation was passed by the Council on 14 March 2001, the Regulation would come into effect on 1 April 2001.

40. Mr TING added that the Administration would publicise the prohibition of unauthorised possession of video recording equipment in places of public entertainment. Cinemas and theatres would also be requested to provide facilities for patrons to store their video recording equipment so as to minimise inconvenience to tourists and members of the public.

VI. Report of Committee on Members' Interests - Downward adjustment of the minimum value of registrable one-off material benefits received by LegCo Members
(*LC Paper No. CMI/33/00-01*)

41. Referring to the paper, Mr David CHU, Chairman of the Committee on Members' Interests, said that the Committee had discussed at three separate meetings whether the minimum value of registrable one-off material benefits, set at \$10,000 in 1993, was appropriate.

42. Mr David CHU said that the Committee had noted that the amount of \$10,000 was not based on any specific objective standards. The Committee had made reference to the practice in the House of Commons of the United Kingdom and the House of Representatives of the United States of America, which set the value of registrable material benefit at

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£ 225 and US\$ 260 respectively. Taking these factors into consideration, the Committee considered that the minimum value of registrable one-off material benefit received by LegCo Members had been pitched at too high a level. The Committee recommended adjusting the amount downwards to \$2,000 to enhance transparency of Members' registrable interests but without causing too much inconvenience for Members.

43. Mr David CHU added that a few Members had expressed views about the Committee's recommendation in the past two days. He proposed that a decision on the recommendation in paragraph 6 of the paper be deferred in order that the Committee could further consult Members and discuss their views.

44. Mr LAW Chi-kwong said that if the minimum value of registrable one-off material benefits was to be adjusted downwards from \$10,000 to \$2,000, the Committee should provide clear guidelines on whether a Member was expected to ascertain the value of the gift or benefit by asking the donor, or to make his/her own valuation or assessment. He added that it was difficult to tell the value of certain gifts such as a bottle of wine.

45. Mr Eric LI said that when the amount of \$10,000 was set in 1993, the previous Committee on Members' Interests had considered factors such as whether the value of the benefit would affect the judgment or decision of a Member, the extent of inconvenience posed to Members in reporting such benefits, and gifts received on special occasions such as weddings and birthdays. He added that the previous Committee had tried to strike a balance between these factors and transparency of the system.

46. Miss Margaret NG commented that the paper did not provide all necessary information and it gave the impression that the proposed downward adjustment would only apply to material benefits received in connection with directorships. Mr Martin LEE shared Miss NG's views. Miss NG further asked what document(s) should be read together with the paper. Chief Assistant Secretary (3)1 clarified that the proposed downward adjustment also applied to "material benefit" referred to in categories 2, 4 and 6 of the Registration Form on Members' Interests. Miss Margaret NG pointed out that the paper should then be read together with the Registration Form, a complete set of which should have been provided to Members.

47. Mr CHAN Kam-lam said that the Committee should also listen to the views of other Members who were not members of the Committee. He suggested that the Committee should consider inviting other Members to

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participate in its discussion on the matter or convene a special meeting for the purpose. Mr Andrew WONG expressed support for Mr CHAN's suggestion. Mr WONG added that he had a number of queries on the Committee's recommendation. He considered that it was important to make clear whether "material benefit" also included financial sponsorship and other items, in addition to gifts.

48. The Chairman said that Members could forward their views in writing to the Committee. Members could also attend the consultation meeting which the Committee would call to let Members put forth their views on the matter. She added that the House Committee would defer a decision on the paper as requested by the Chairman of the Committee on Members' Interests, pending the Committee's further deliberation. Members agreed.

VII. Any other business

49. The Chairman advised that the fire drill scheduled to be held immediately after the meeting had been cancelled.

50. There being no further business, the meeting ended at 3:20 pm.

Legislative Council Secretariat

7 March 2001