

立法會
Legislative Council

LC Paper No. CB(2) 1456/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 26th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 4 May 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 James TIEN Pei-chun, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, JP
Dr Hon LUI Ming-wah, 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 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
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung
Hon LAU Chin-shek, JP
Hon LAU Kong-wah

Hon Mrs Miriam LAU Kin-yee, 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
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, 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
Dr Hon LO Wing-lok
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent :

Hon David CHU Yu-lin
Hon Cyd HO Sau-lan
Hon Eric LI Ka-cheung, JP
Hon CHAN Kwok-keung
Hon CHAN Yuen-han
Hon Howard YOUNG, JP
Hon LAU Wong-fat, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LEUNG Fu-wah, MH, JP

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
Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Mr Stephen LAM	Senior Assistant Legal Adviser (Acting)
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
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 25th meeting held on 27 April 2001
(LC Paper No. CB(2) 1421/00-01)**

The minutes were confirmed.

II. Matters arising

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

Invitation to CS to attend a meeting of the House Committee

2. The Chairman informed Members that CS had said that he was keen to strengthen communication with the Legislative Council. Apart from informal meetings with political parties and independent Members, CS would be very pleased to attend an official meeting with Members as soon as possible. However, CS hoped that he would not have to stray into the policy areas of bureau secretaries, who were more familiar with their respective portfolios.

3. The Chairman added that CS had also emphasized the importance of mutual respect between Members and Government officials. CS had said that it was natural for Members to have views that are different from the Administration, but discussions should be constructive in spite of such differences.

4. The Chairman said that she had responded that Members were sincere in developing a channel of communication with the Administration, and that a meeting with CS in public was important as Members had to be

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accountable to their constituents and to hold the Administration accountable to the public.

5. The Chairman further said that it was agreed that issues raised at Members' meetings with CS should not duplicate those which were within the domains of bureau secretaries, from both the perspectives of efficient use of the Council's time and good management. Nevertheless, Members might sometimes wish to elevate to CS's level issues which had not been dealt with satisfactorily by the Administration at Panels or those which were cross-bureaux in nature. She had suggested that Members and the Administration could agree before the meeting on appropriate specific issues to be raised. A topic which would be appropriate for the first meeting was CS's vision and priorities.

6. Dr YEUNG Sum, Ms Emily LAU and Mr Frederick FUNG welcomed CS's decision to attend a meeting of the House Committee. Mr FUNG added that CS's vision and priorities were appropriate topics. Dr YEUNG Sum pointed out that CS had said publicly that his missions as CS included improving the relationship between the Administration and the Legislature, establishing a system of accountability for principal officials, and paving the way for the 2007 constitutional review. He suggested that CS should talk about these missions at the meeting. Ms Emily LAU added that the issue of political neutrality of civil servants should also be covered.

7. The Chairman informed Members that the Director of Administration and the Secretary General would discuss the date of the meeting which would likely be after the Fortune Global Forum but before CS's visit to the western part of the Mainland, commencing on 20 May 2001.

8. Ms Emily LAU suggested that the meeting with CS be held on 18 May 2001 as there was no Finance Committee meeting scheduled for that day. Ms LAU added that the introductory remarks by CS should not be too long so that there would be more time for discussion. She hoped that Members should be allowed to raise questions on any topic or issue.

9. Dr YEUNG Sum, Ms Emily LAU and Mr Frederick FUNG were of the view that meetings with CS should be arranged on a regular basis. The Chairman said that CS had shown goodwill and sincerity to enhance communication with the Council and had pledged that meetings with Members would be held from time to time. Dr YEUNG suggested that meetings with CS should be held on a quarterly basis.

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10. The Chairman agreed to convey Members' views and suggestions to CS.

Copyright (Suspension of Amendments) Bill 2001

11. The Chairman said that the Administration's letter of 3 May 2001 requesting priority be given to the Copyright (Suspension of Amendments) Bill 2001 was tabled at the meeting. She added that as a vacant slot would become available at this meeting following the report of the Bills Committee on Telecommunications (Amendment) Bill 2001 under item V(b) below, the Bills Committee on Copyright (Suspension of Amendments) Bill 2001 could start work immediately.

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)

Copyright (Suspension of Amendments) Bill 2001
(LC Paper No. LS 90/00-01)

12. The Legal Adviser said that the Legal Service Division had prepared a report on the Bill for Members' reference.

13. The Chairman said that Mr SIN Chung-kai, Chairman of the subcommittee formed to study the draft Bill, would make a report on the subcommittee's work progress under item V(c) below. The Chairman further said that Members agreed at the House Committee meeting on 20 April 2001 that a Bills Committee would be formed to take over the work of the subcommittee, after the Bill was introduced into the Council.

14. The Chairman proposed that for continuity and in line with past practice, members of the subcommittee would become members of the Bills Committee and that other Members could also join the Bills Committee, if they wished. Members agreed. The Chairman said that the Secretariat would issue a circular to announce arrangements for the first meeting and also invite Members to join the Bills Committee.

(b) Legal Service Division's report on subsidiary legislation tabled in Council on 2 May 2001 (gazetted on 27 and 29 April 2001)
(LC Paper No. LS 88/00-01)

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15. Referring to the report, the Legal Adviser said that a total of eight items of subsidiary legislation were gazetted on 27 and 29 April 2001.

16. Referring to the Employees Compensation Assistance (Notice of Insolvency of Insurer) Regulation, the Legal Adviser said that the Regulation prescribed the form of the notice of insolvency of insurer to be given by the Employees Compensation Assistance Fund Board (the Board) for the purpose of section 20 of the Employees Compensation Assistance Ordinance (Cap. 365).

17. The Legal Adviser explained that under the Ordinance, an employer who had taken out an insurance policy from an insurer to cover his liabilities for compensation or damages for employment-related injuries could apply for payment from the Employees Compensation Assistance Fund to meet such liabilities in the event that the insurer had become insolvent and had failed to indemnify the employer in respect of such liabilities. The Legal Adviser added that under section 19(1)(b) of the Ordinance, however, no application could be made by an employer for payment from the Fund if, at the date of the employment-related accident, a notice of insolvency in respect of the insurer concerned was in effect and had been in effect for not less than one month.

18. The Legal Adviser said that on 10 April 2001, the Insurance Authority advised the Board that three insurers were unable or unlikely to pay in full claims in respect of liabilities under policies of insurance as they fell due. Accordingly, the three insurers should be regarded as insolvent for the purposes of the Ordinance. To put into effect the limitation under section 19(1)(b) of the Ordinance, it was necessary for the Board to publish notices of insolvency in the Gazette the names of the three insolvent insurers. The Legal Adviser further said that pursuant to the Regulation made by the Chief Executive in Council on 24 April 2001, the Board had since given notices of insolvency of the three insurers in the Gazette on 27 April 2001.

19. The Legal Adviser informed Members that the effect of the notices of insolvency of the three insurers was that applications for payment from the Fund could be made to the Board if the employment-related accident occurred within one month from 27 April 2001 but not beyond. This would mean that employers would need to take out alternative insurance cover to indemnify themselves in respect of their liability for compensation for employment-related injuries. The Legal Adviser added that the legal and drafting aspects of the Regulation were in order.

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20. Members did not raise any query on the Regulation and other items of subsidiary legislation.

21. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 30 May 2001, or 6 June 2001 if extended by resolution.

IV. Business for the Council meeting on 16 May 2001

(a) **Questions**

(LC Paper No. CB(3) 633/00-01)

22. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 16 May 2001.

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

Massage Establishments (Amendment) Bill 2001

23. The Chairman said that the Bill would be introduced into the Council on 16 May 2001 and considered by the House Committee on 18 May 2001.

(c) **Government motion**

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

(d) **Members' motions**

(i) **Motion on "The 4 June incident"**

25. The Chairman said that the motion would be moved by Mr SZETO Wah and the wording had been issued to Members.

(ii) **Motion on "Family policy"**

26. The Chairman said that the motion would be moved by Mr LAW Chi-kwong and the wording had been issued to Members.

27. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the two motions was 9 May 2001.

V. Bills Committee and subcommittee reports

(a) **Position report on Bills Committees/subcommittees**
(LC Paper No. CB(2) 1428/00-01)

28. The Chairman said that there were 15 Bills Committees, including the Bills Committee on the Copyright (Suspension of Amendments) Bill 2001, and five subcommittees in action.

(b) **Report of the Bills Committee on Telecommunications (Amendment) Bill 2001**

29. Referring to the Bills Committee's report which was tabled at the meeting, Mr James TIEN, Chairman of the Bills Committee, said that the Bills Committee had held six meetings and had also received views from the industry. He said that the Bills Committee recommended the resumption of Second Reading debate on the Bill on 16 May 2001, subject to the Committee Stage amendments to be moved by the Administration.

30. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 16 May 2001. The Chairman reminded Members that the deadline for giving notice of amendments to the Bill was Monday, 7 May 2001.

31. Mr James TIEN said that it was the Administration's plan to gazette the related subsidiary legislation on 1 June 2001. This meant that any amendment could be made at the Council meeting on 4 July 2001, or at the last Council meeting of the current session on 11 July 2001, if the scrutiny period was extended by resolution. Mr TIEN further said that the industry had expressed views on the level of spectrum utilization fees and the method for determining such fees which would be provided for in the subsidiary legislation. To expedite scrutiny, members of the Bills Committee recommended that they should form a subcommittee to immediately discuss the draft subsidiary legislation and proposed auction design and process as well as to meet with the industry.

32. The Chairman proposed that a subcommittee should be set up under the House Committee, as recommended by the Bills Committee. The Chairman added that members of the Bills Committee should become members of the subcommittee and that other Members could also join the subcommittee, if they wished. Members agreed. The Chairman said that the Secretariat would issue a circular to announce arrangements for the first meeting of the subcommittee and also invite Members to join the subcommittee.

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33. Ms Emily LAU pointed out that the original plan was for the proposed auction design and process to be discussed by the Panel on Information Technology and Broadcasting. However, as the Bills Committee had recommended that the subcommittee should also discuss the subject matter, it would not be followed up by the Panel. Ms LAU suggested that this point be made clear in the circular so that Members interested in the auction design and process would join the subcommittee.

34. Ms Emily LAU said that while she agreed to the setting up of a subcommittee to commence scrutiny of the draft subsidiary legislation, she hoped that the Chairman would convey to CS that the Administration must allow sufficient time for Members to scrutinise bills and subsidiary legislation. She further said that Members were often placed in a difficult position where, on the one hand, they had to study legislative proposals very carefully, but on the other hand, they had to work against very tight schedules set by the Administration.

35. Dr YEUNG Sum and Miss Margaret NG agreed with Ms Emily LAU. Citing the example of the Intellectual Property (Miscellaneous Amendments) Bill 2000, they said that the Bill was introduced into the Council in January 2000 and a Bills Committee was formed. However, the Bills Committee was not activated until late May 2000 and three meetings were held in June 2000, shortly before the end of the last term. They strongly requested that the Administration should allow sufficient time for Members to scrutinise legislative proposals.

36. Mr SIN Chung-kai said that he was told by reporters that according to the Administration, the holding of the spectrum auction had to be "postponed" from June 2001 to September 2001 because Members needed time to scrutinise the Bill. He pointed out that if the auction was to be held in June 2001, Members would not have enough time to scrutinise the Bill and the related subsidiary legislation. He considered it unfair for Members to be blamed for the "delay".

37. Mr James TIEN said that he had also received an enquiry from a reporter regarding the "delay" in the holding of the auction. He pointed out that according to the legislative time-table provided by the Administration, the resumption of the Second Reading debate on the Bill would be held on 16 May 2001 while the related subsidiary legislation would be gazetted on 1 June 2001. There was therefore no question that the spectrum auction could be held in June 2001, based on the Administration's time-table. Mr TIEN further said that he would clarify with the reporter concerned and the Information Technology and Broadcasting Bureau as to whether the Administration had actually blamed Members for the "delay".

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38. Miss Margaret NG and Ms Emily LAU said that it would not be to anyone's benefit if a bill was hastily passed without thorough study and was found to have problems afterwards.

39. Ms Emily LAU added that she was very unhappy to hear that while Members had tried their best to expedite scrutiny of the Telecommunications (Amendment) Bill 2001 and the related subsidiary legislation, the Administration had blamed Members for the "delay" in the holding of the auction. She strongly urged that the Chairman should raise with CS that Members should be given sufficient time to scrutinise legislative proposals.

40. Mr Martin LEE added that the Administration should avoid introducing too many bills into the Council towards the end of a legislative term.

41. The Chairman agreed to convey Members' views to CS.

(c) Report of the Subcommittee on the draft Copyright (Suspension of Amendments) Bill 2001

42. The Chairman said that Mr SIN Chung-kai, Chairman of the subcommittee, would like to report on the subcommittee's deliberations. She added that Members had already agreed to form a Bills Committee to take over the work of the subcommittee to scrutinise the Bill.

43. Referring to the subcommittee's report which was tabled at the meeting, Mr SIN Chung-kai said that the subcommittee held two meetings on 25 April and 3 May 2001 to examine the draft Bill provided by the Administration. Referring to paragraph 10 of the report, Mr SIN invited Members to note the list of documents which the Administration had been asked to provide to Members to facilitate further deliberations of the Bill.

VI. Any other business

44. There being no further business, the meeting ended at 3:15 pm.