

立法會
Legislative Council

LC Paper No. CB(2) 2080/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 35th meeting
held in the Legislative Council Chamber
at 12:00 noon on Tuesday, 10 July 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, GBS, JP
Hon Cyd HO Sau-lan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
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 Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon LAU Chin-shek, JP
Hon LAU Kong-wah
Hon LAU Wong-fat, GBS, JP
Hon Mrs Miriam LAU Kin-ye, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk

Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, 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
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 David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Prof Hon NG Ching-fai
Hon CHAN Yuen-han, JP
Hon Andrew WONG Wang-fat, JP
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Hon YEUNG Yiu-chung, BBS
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon TANG Siu-tong, JP
Hon WONG Sing-chi

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

Mr Ray CHAN	Assistant Secretary General 3
Ms Bernice WONG	Assistant Legal Adviser 1
Miss Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
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
Mr Simon WONG	Senior Public Information Officer 1

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**I. Confirmation of the minutes of the 34th meeting held on 29 June 2001
(LC Paper No. CB(2) 2006/00-01)**

The minutes were confirmed.

II. Matters arising

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

Report of Committee on Rules of Procedure (CRoP) on the progress of the implementation of measures to improve the working mechanism of Panels and Bills Committees for the scrutiny of legislative and financial proposals

2. The Chairman informed Members that the Director of Administration (D of Adm) was still consulting Policy Bureaux regarding the proposed deadline for discussion papers. Some Bureau Secretaries had pointed out that certain degree of flexibility was necessary. CS considered that in fixing a deadline, sufficient lead time for preparing the discussion paper should be taken into account.

3. The Chairman said that for different kinds of discussion papers, the lead time for preparation might be different, and that the issue needed more in-depth deliberation. She had suggested to CS that D of Adm should meet with CRoP to discuss the issue. Dr YEUNG Sum expressed support. Dr YEUNG added that CRoP should meet with D of Adm before the next session.

4. Miss Margaret NG asked whether CS was aware that the Committee Chairman concerned would normally consult the Administration on the time required for preparation of discussion papers

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before deciding on the date of a meeting. The Chairman said that CS was aware of this, but she pointed out that not every Committee Chairman would set a deadline for the Administration to provide discussion papers.

5. The Chairman further said that CS had enquired whether it was possible for discussion papers to be provided to Members electronically. The Chairman added that the Secretary General (SG) would explore whether the suggestion was acceptable to all Members, but she had informed CS that providing only soft copies of discussion papers might not be acceptable to some Members.

6. The Chairman said that CS had commented that draft minutes were often issued a long time after a meeting. He was of the view that draft minutes should be available not later than three days after the meeting. He had suggested that instead of writing minutes, keeping only audio records might be a possibility.

7. The Chairman said that given the large number of committee meetings, it was not possible for the draft minutes of all meetings to be ready in three days. As CS's proposal would affect the operation of LegCo committees and have resource implications, she suggested that the matter should be discussed by the relevant committees, such as CRoP and The Legislative Council Commission.

8. The Deputy Chairman added that CS had suggested that the minutes of meetings should be produced in a condensed form, recording only the decisions and follow-up actions required, since there were already audio recordings of committee proceedings available for reference.

9. Mr James TIEN agreed that minutes of meetings should be prepared expeditiously. He added that the Administration should also consider providing discussion papers at least three days before a meeting.

10. Mrs Sophie LEUNG said that it would not be possible to produce minutes in time if meetings were held at short intervals. She said that the Bills Committee on Securities and Futures Bill and Banking (Amendment) Bill 2000 had discussed the possibility of keeping only audio records for its meetings, and members had different views on the matter.

11. Ms Emily LAU said that it was undesirable and unacceptable for the minutes of a meeting to be issued a few months after the meeting. She hoped that SG would explore ways to expedite the preparation of minutes of meetings, and that additional resources should be sought if necessary. She added that efforts should also be made to clear all

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outstanding minutes of meetings before the commencement of the next session.

12. Ms Emily LAU further said that the working group formed to review the organisation and structure of the Secretariat should also be consulted.

13. SG responded that arrangements would be put in place before the next session to expedite the preparation of minutes, and that the relevant committees would be consulted on the arrangements.

14. Mr LAU Chin-shek said that in making arrangements for expediting the preparation of minutes, SG should have regard to the work pressure on the staff of the Secretariat.

(b) **Freight Containers (Safety) (Examination Procedure) Order**
(*LC Paper No. LS 141/00-01*)

15. The Chairman said that the Secretary for Economic Services (SES) had given notice to move a motion at the Council meeting on 11 July 2001 to amend sections 4(1)(b)(ii) and 2(b)(ii) of the English text of the Order. SES had explained that the Bureau had no disagreement about the proposed addition of the term of "competent person". It was only due to some misunderstanding that the Bureau had suggested on 29 June 2001 that the proposed amendment would be dealt with in a future exercise.

16. The Chairman said that as SES had agreed to move the amendments, she would withdraw her earlier notice to move a motion to amend the same sections of the Order. Members agreed.

(c) **Proposed Factories and Industrial Undertakings (Gas Welding and Flame Cutting) Regulation**
(*LC Paper No. CB(2) 2030/00-01*)

17. Mr LAU Chin-shek, Chairman of the Panel on Manpower, said that the Panel had discussed the proposed Regulation at its meeting on 4 July 2001. He added that the Administration had consulted the employers associations and trade unions concerned as well as the Labour Advisory Board on the proposed Regulation. Members of the Panel had expressed support for the proposed Regulation and did not consider a subcommittee necessary.

18. Mr Kenneth TING said that employers, who would bear the costs of the mandatory safety training for operators of gas welding and flame cutting work, were generally in support of the proposed Regulation.

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19. Members did not consider it necessary to form a subcommittee to study the proposed Regulation.

20. The Chairman said that the Secretary for Education and Manpower (SEM) could give fresh notice to move a motion to seek the Council's approval for the proposed Regulation in the next session.

(d) Proposed Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) (Amendment) Regulation
(LC Paper No. LS 140/00-01)

21. Introducing the report, the Legal Adviser said that the Administration had agreed to the amendments to the Amendment Regulation suggested by the Legal Service Division.

22. The Chairman said that at the last meeting, Members agreed to defer a decision on the proposed Amendment Regulation pending a further report from the Legal Service Division. As Members would need time to consider the amendments to be proposed by the Administration to the Amendment Regulation, SEM should be requested to withdraw the notice to move a motion to seek the Council's approval for the Amendment Regulation on 11 July 2001. Members agreed.

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) Statute Law (Miscellaneous Provisions) Bill 2001
(LC Paper No. LS 136/00-01)

23. The Legal Adviser explained that certain parts of the Bill proposed miscellaneous technical or minor amendments to different ordinances. The remaining parts of the Bill contained provisions introducing various law reforms concerning marital rape, repayment of deposit, non-immunity provisions and amendments to the Legal Practitioners Ordinance.

24. The Legal Adviser said that Part V of the Bill was to clarify the law on marital rape and define the term "unlawful sexual intercourse" in the Crimes Ordinance to include non-consensual marital intercourse.

25. The Legal Adviser further said that Part X of the Bill amended 15 ordinances relating to the establishment of organisations that performed public or semi-public functions, to the effect that these statutory bodies were not servants or agents of the Government and did not enjoy any

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immunity or privilege of the Government. The amendment was made in response to the suggestion of the Bills Committee formed to study the Adaptation of Laws (No. 16) Bill 1999 in the 1999-2000 session.

26. Ms Emily LAU expressed concern that the Bill contained a number of different matters some of which were contentious in nature. Miss Margaret NG said that the amendments proposed in the Bill concerned legal policy, and that some of these amendments had been discussed by the Panel on Administration for Justice and Legal Services (AJLS Panel) before.

27. Mrs Sophie LEUNG asked whether the relevant organisations and the public had been consulted on the amendments proposed in the Bill. Miss Margaret NG said that the AJLS Panel had discussed the proposal concerning marital rape and had invited views from the legal professional bodies. She added that the Administration had consulted the relevant organisations on some other amendments in the Bill.

28. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Miss Margaret NG and Ms Emily LAU expressed support. The following Members agreed to join: Ms Cyd HO, Miss Margaret NG, Mrs Sophie LEUNG and Ms Emily LAU.

(ii) Fire Services (Amendment) Bill 2001
(LC Paper No. LS 131/00-01)

29. Referring to the report, the Legal Adviser said that the Bill sought to implement measures to enhance the effectiveness of the current regulatory framework for fire hazard abatement and prevention.

30. The Legal Adviser pointed out that under the proposed Regulation, illegal refuelling and improper stowage or conveyance of motor vehicles or parts containing residual fuel in an enclosed freight container would be offences.

31. The Legal Adviser further said that an owner, tenant, occupier, or person in charge of any premises would also commit an offence if he knowingly permitted or suffered the premises to be used for illegal refuelling activities. The Bill also empowered the court to order termination of tenancy of such premises and to make a closure order if refuelling activities recurred in such premises within 12 months.

32. The Legal Adviser added that members of the Panel on Security expressed various views when consulted on the proposed amendments at its meeting on 3 April 2001.

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33. The Chairman proposed that a Bills Committee be set up to examine the Bill in detail. Members agreed. The following Members agreed to join: Ms Cyd HO, Mr James TO (as advised by Dr YEUNG Sum), Mrs Miriam LAU, Mr Abraham SHEK, Mr LEUNG Fu-wah and Mr IP Kwok-him.

(b) Legal Service Division's report on subsidiary legislation tabled in Council on 4 July 2001 (gazetted on 29 June 2001)
(LC Paper No. LS 138/00-01)

34. The Legal Adviser said that only one item of subsidiary legislation, the Tax Reserve Certificates (Rate of Interest) (No.7) Notice 2001, was gazetted on 29 June 2001. The legal and drafting aspects of the subsidiary legislation were in order.

35. Members did not raise any query on the item of subsidiary legislation.

IV. Further report by the Legal Service Division on outstanding bills

Companies (Amendment) Bill 2001
(LC Paper No. LS 139/00-01)

36. The Legal Adviser said that at the House Committee meeting on 8 June 2001, Members agreed to defer a decision on the Bill pending the Administration's reply to the queries raised by the Legal Service Division.

37. The Legal Adviser advised that the Administration had now agreed to move a Committee Stage amendment (CSA) to the Bill to set out expressly the deeming provision, under which any person entitled to receive the relevant financial documents of a listed corporation would be deemed to have agreed to receive a summary financial report instead of the full financial documents, if he did not inform the corporation concerned within 30 days of a notice served on him requiring him to state whether he wished to continue to receive the full financial documents. This would be different from the Administration's original plan of providing such deeming provision in subsidiary legislation.

38. The Legal Adviser added that the Administration had also proposed to introduce a CSA to limit the general meetings to those at which relevant financial documents were required to be laid. This would reduce the possibility of the required period of publication under the proposed section 141CG(2) being affected by the holding of an extraordinary general meeting.

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39. The Chairman said that as the technical issues had been resolved, the Bill was ready for resumption of Second Reading debate in the next session. Members did not raise objection.

V. Bills Committee and subcommittee reports

Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 2019/00-01)

40. The Chairman said that there were 15 Bills Committees and five subcommittees in action as well as seven Bills Committees on the waiting list, including the two Bills Committees formed under agenda items III (a)(i) and (ii) above.

VI. Any other business

Cancellation of meetings

41. The Chairman said that Mr Martin LEE had informed her that a joint meeting between the Panel on Planning, Lands and Works (PLW Panel) and the Panel on Environmental Affairs (EA Panel) originally scheduled to be held at 12:00 noon on 9 July 2001, after a meeting of the PLW Panel at 10:45 am on the same day, was cancelled at the last minute by the Chairman of the PLW Panel. Mr LEE would like her to remind Members that it was not appropriate for the Chairman of a Panel to cancel the meeting of another Panel.

42. Mr LAU Ping-cheung expressed agreement with Mr LEE that the Chairman of a Panel did not have the right to cancel the meeting of another Panel.

43. Ms Emily LAU said that the PLW Panel meeting on 9 July 2001 was for discussing the work plan and pay review of the Urban Renewal Authority (URA) and non-Panel Members had been invited to attend the meeting. As many Members were still awaiting their turn to ask questions towards the end of the meeting, she was the one who proposed that the joint meeting with the EA Panel scheduled to be held immediately after the PLW Panel meeting should be cancelled. Ms LAU pointed out that the decision was taken with the agreement of all the Members present at the PLW Panel meeting. Ms LAU added that more time should have been allocated for the discussion of the item.

44. Mr IP Kwok-him and Dr YEUNG Sum said that Members were very concerned about the work plan and pay review of URA and did not

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want to adjourn the discussion at that time. They therefore expressed support for the cancellation of the joint meeting in order that the discussion could continue.

45. The Chairman pointed out that under the House Rules, when a Panel sat jointly with any other Panel for the purpose of considering any matter of common interest, the Panels concerned should decide which Chairman should chair the meeting. She advised that the PLW Panel should have suspended its meeting and allowed the joint meeting with the EA Panel to commence so that the Chairman of the joint meeting could consult members of the two Panels as to whether the joint meeting should be cancelled. Miss Margaret NG expressed support for the Chairman's advice.

46. The Chairman further said that the Committee Clerk should consult the Chairman concerned regarding the allocation of sufficient time for the discussion of individual items on the agenda.

Date of Policy Address

47. The Chairman said that the Administration had yet to advise the Council of the exact date of the Policy Address to be delivered by the Chief Executive in the next session. The Chairman said that she would raise the matter with CS.

48. Miss Margaret NG suggested that in future, the Administration should notify Members of the date of the Policy Address not later than the last House Committee meeting of the previous session.

Meetings during the summer break

49. The Chairman said that this meeting was the last House Committee meeting scheduled for the current session. She thanked Members for the support given to her and the Deputy Chairman. The Chairman added that it would be for individual committees to decide whether or not to hold meetings during the summer break. Members agreed.

50. There being no other business, the meeting ended at 12:55 pm.