

立法會
Legislative Council

LC Paper No. CB(2) 565/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 11th meeting
held in the Legislative Council Chamber
at 4:50 pm on Friday, 15 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

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 Eric LI Ka-cheung, JP

Dr Hon LUI Ming-wah, JP

Hon NG Leung-sing

Prof Hon NG Ching-fai

Hon Margaret NG

Hon CHEUNG Man-kwong

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

Dr Hon Philip WONG Yu-hong

Hon Howard YOUNG, JP

Dr Hon YEUNG Sum

Hon YEUNG Yiu-chung

Hon LAU Kong-wah

Hon Mrs Miriam LAU Kin-ye, 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 LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, 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
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 :

Dr Hon David LI Kwok-po, JP
Hon James TO Kun-sun
Hon HUI Cheung-ching
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Hon LAU Chin-shek, JP
Hon LAU Wong-fat, GBS, JP
Hon Timothy FOK Tsun-ting, SBS, 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
Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Miss Connie FUNG	Assistant Legal Adviser 3
Mr Arthur CHEUNG	Assistant Legal Adviser 5
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mrs Constance LI	Chief Assistant Secretary (2)5
Ms LEUNG Siu-kum	Chief Assistant Secretary(1)4
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Betty MA	Senior Assistant Secretary (2)1

Action

I. Confirmation of the minutes of the 10th meeting held on 8 December 2000

(LC Paper No. CB(2) 464/00-01)

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 CS conveying Members' views and recommendations regarding the level and adjustment mechanisms of Members' remuneration and operating expenses reimbursement. The Chairman added that CS had just replied that the Administration had noted Members' views and recommendations and would put them forward to the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the Hong Kong Special Administrative Region for consideration.

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) Employment (Amendment) (No. 2) Bill 2000
(LC Paper No. LS 27/00-01)

3. Referring to the report, the Legal Adviser explained that the Bill sought to repeal women-specific references as well as to clarify certain

provisions in the Employment Ordinance. The Legal Adviser informed Members that the Legal Service Division had sought clarification from the Administration as to whether the presumptions in the proposed amendments to sections 15 and 33 of the Ordinance would violate the Hong Kong Bill of Rights Ordinance. The Administration had just provided a reply which was tabled for Members' information.

4. The Legal Adviser said that the Panel on Manpower was consulted on the proposed amendments at its meeting on 16 November 2000 and some members had raised queries. He added that Members might wish to consider forming a Bills Committee to study the Bill.

5. Mrs Miriam LAU said that Members belonging to the Liberal Party considered that a Bills Committee should be formed to study the proposed amendments in detail.

6. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr James TIEN (as advised by Mrs Miriam LAU), Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Andrew CHENG, Mr MAK Kwok-fung and Mr LEUNG Fu-wah.

(ii) **Prior of the Order of Cistercians of the Strict Observance Incorporation (Amendment) Bill 2000**
(*LC Paper No. LS 34/00-01*)

7. Introducing the paper, the Legal Adviser said that the Bill which was introduced by Mr Ambrose LAU aimed to amend the title of the Prior in Hong Kong of The Cistercian Order of the Strict Observance to Abbot. He added that the legal and drafting aspects of the Bill were in order.

8. Mr Ambrose LAU explained that the change of title was necessary to reflect the upgrading of the monastery established by The Cistercian Order of the Strict Observance at Lantao Island to the status of an abbey.

9. Members raised no objection to the resumption of the Second Reading debate on the Bill.

(b) **Legal Service Division's report on subsidiary legislation tabled in Council on 13 December 2000 (gazetted on 8 December 2000)**
(*LC Paper No. LS 40/00-01*)

10. Referring to Part I of the report, the Legal Adviser said that five of the nine items of subsidiary legislation gazetted on 8 December 2000 were

related to revision of fees. He added that the relevant Panels had been consulted on the proposals in the last term.

11. Mr James TIEN said that the proposals should be studied in detail to see if they directly affected people's livelihood. The Chairman proposed that a subcommittee be formed to study the five items of subsidiary legislation relating to revision of fees. Members agreed. The following Members agreed to join : Mr James TIEN, Mr SIN Chung-kai and Mr Howard YOUNG.

12. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 10 January 2001, or 17 January 2001 if extended by resolution. She added that in view of the impending Christmas holidays, the subcommittee might wish to consider seeking the Council's approval to extend the scrutiny period of these five items of subsidiary legislation.

13. Mr SIN Chung-kai proposed that the motion be moved by the Chairman of the House Committee. Members raised no objection. The Chairman said that she would give notice to move the motion at the Council meeting on 20 December 2000.

14. Regarding the three sets of Regulations made by the Entertainment Special Effects Licensing Authority (the Authority), the Legal Adviser said that the Administration had been requested to clarify whether the Authority had actually been established, as section 3 of the Entertainment Special Effects Ordinance which established the Authority had not yet come into operation. He further said that the Administration had just provided a response explaining that the making of Regulations by the Authority was in order by virtue of section 32 of the Interpretation and General Clauses Ordinance (Cap.1). The Legal Service Division would study the Administration's response and make a further report if necessary.

IV. Further business for the Council meeting on 20 December 2000

Bills - resumption of debate on Second Reading, Committee Stage and Third Reading

(a) Adaptation of Laws Bill 2000

(b) Dutiable Commodities (Amendment) Bill 2000

15. The Chairman said that Members had not raised objection at the last meeting on 8 December 2000 to the resumption of the Second

Reading debate on the two Bills. She added that the Secretary for the Treasury had given notice to move a Committee Stage amendment to defer the commencement date of the Dutiable Commodities (Amendment) Bill 2000 to 1 February 2001.

V. Bills Committee and subcommittee reports

(a) **Position report on Bills Committees/subcommittees**
(LC Paper No. CB(2) 475/00-01)

16. The Chairman said that there were eight Bills Committees and four subcommittees in action.

(b) **Report of the Subcommittee on Dangerous Drugs Ordinance (Amendment of First Schedule) (No. 2) Order 2000**
(LC Paper No. CB(2) 449/00-01)

17. The Chairman said that the Subcommittee Chairman, Mr CHEUNG Man-kwong, had made a verbal report at the last meeting. The Subcommittee's written report was now provided for Members' reference.

(c) **Report of the Subcommittee on subsidiary legislation relating to revision of fees and charges gazetted on 24 November 2000**

18. Mr SIN Chung-kai, Subcommittee Chairman, said that the Subcommittee met on 13 December 2000 to discuss the 12 items of subsidiary legislation gazetted on 24 November 2000 which were related to fees and charges. To allow time for the Subcommittee to report its deliberations to the House Committee, he would move a motion at the Council meeting on 20 December 2000 to extend the scrutiny period of the relevant subsidiary legislation to 10 January 2001. He added that a written report would be provided to the House Committee at the next meeting on 5 January 2001.

19. Mr SIN Chung-kai reminded Members that the deadline for giving notice to amend the subsidiary legislation was 3 January 2001, if the scrutiny period was extended to 10 January 2001 by resolution of the Council.

VI. Report of the Panel on Financial Affairs on proposed overseas duty visit to London and New York
(*LC Paper No. CB(1) 317/00-01*)

20. Introducing the paper, Mr Ambrose LAU, Chairman of the Panel on Financial Affairs (FA Panel), said that since the 1998-99 session, the FA Panel had spent 95% of its time studying issues and legislative proposals relating to financial infrastructure and practices of the banking, securities and futures industries. In addition, a number of important legislative proposals had been or would be introduced into the Council aiming at modernising the legal and regulatory framework for the markets and making Hong Kong a first-class international financial centre.

21. Mr LAU informed Members that the FA Panel proposed to visit London and New York from 4 to 13 April 2001. The aims of the visit were to enhance members' understanding of the financial infrastructure of leading economies and to establish links with their regulatory bodies and major market players. He referred Members to Appendix II to the paper for the estimated expenditure of the proposed visit.

22. Assistant Secretary General 1 (ASG1) said that according to the decision of The Legislative Council Commission made in 1997, Legislative Council (LegCo) Members going on an overseas duty visit should be fully sponsored for their trip. For the purpose of budget control, the number of delegates sponsored for each overseas trip should, under normal circumstances, be limited to not more than six for a parliamentary visit and four for other overseas duty visits. Members who were not selected to participate could join the delegation on a self-financing basis.

23. ASG1 further said that that nine members of the FA Panel had indicated interest in participating in the visit. To enable Members from different political parties and groupings in the Council and those with heavy involvement in finance-related legislative work to have the chance of taking part in the visit, the Panel proposed that the quota of fully-sponsored Members be increased from four to seven.

24. Mr SIN Chung-kai, Chairman of the Bills Committee on Securities and Futures Bill and Banking (Amendment) Bill 2000, said that the Bills Committee also considered it necessary to study the financial regulatory regimes in other countries. A member of the Bills Committee had suggested inviting overseas experts to provide advice to the committee. Noting that the FA Panel had plans to visit London and New York to study their financial infrastructure, the Bills Committee would like to know whether its members could join the proposed visit.

25. Miss Emily LAU said that the estimated expenditure of \$520,000 for the proposed duty visit was a substantial amount. Given the limited budget and that there would be bids from other Panels, she considered that the Commission's decision of limiting the number of fully-sponsored Members for overseas duty visits to four should be adhered to. She suggested that reports on overseas visits should be made available to other Members who did not participate in the visits.

26. Dr YEUNG Sum said that in view of the relatively high costs for the proposed visit, he agreed that there should be no more than four fully-sponsored Members, in accordance with the decision of the Commission. He added that three Members belonging to the Democratic Party (DP) had indicated interest in participating in the visit but DP would only nominate one of the three Members.

27. Miss Margaret NG pointed out that the main objective of the two Bills was to introduce a new financial regulatory regime which would be on a par with international standards and practices. The Bills Committee had considered whether it would be more economical for overseas experts to be invited to Hong Kong or for members of the Bills Committee to conduct an overseas visit, in order to obtain information on overseas financial regulatory regimes. Miss NG added that as most members of the Bills Committee were also members of the FA Panel, there was a case for increasing the quota of fully-sponsored Members for the visit proposed by the FA Panel to include some members of the Bills Committee.

28. The Chairman said that it was difficult for the House Committee to consider requests to increase the number of fully-sponsored Members on a case by case basis. Moreover, changes to the existing guidelines for allocation of funds should not be made freely. It would be necessary to first review whether the guidelines decided on back in 1997 were still appropriate given present day circumstances. The Chairman proposed that a subcommittee should be formed to conduct the review and make recommendations to the House Committee for consideration.

29. Miss Margaret NG and Mr Fred LI expressed support for the proposal. Miss NG suggested that other than considering the FA Panel's request, the proposed subcommittee should also look into the allocation of funds for other committees, such as Bills Committees, to undertake overseas duty visits as well as the financial arrangements for committees to hire overseas consultants or experts.

30. The Chairman responded that Bills Committees could also undertake overseas duty visit and that the same guidelines for the allocation of funds applied.

31. Mr Ambrose LAU and Mr James TIEN asked whether, instead of forming a subcommittee to review the guidelines for the allocation of funds, the matter should be referred to The Legislative Council Commission. Mr TIEN further asked whether the decision made by the Commission in 1997 was based on the recommendation of a subcommittee.

32. The Chairman responded that the Commission had decided that for visits undertaken by Panels, the number of fully-sponsored Members should be four. If Members considered that the number should be changed, it would be for the House Committee to present its recommendations to the Commission for consideration. The Secretary General added that the decision of the Commission in 1997 was made at the suggestion of the House Committee.

33. Mr Fred LI said that the Panel on Environmental Affairs and the Panel on Constitutional Affairs had also indicated interest in undertaking overseas duty visits in the current session. He pointed out that the budget of \$896,000 might not be enough if too many Panels had plans to undertake overseas duty visits. Mr LI also suggested that the proposed subcommittee should consider whether the membership size of Panels should be a factor for determining the number of fully-sponsored Members participating in overseas visits.

34. The Chairman said that the membership of the subcommittee should be representative of the different groupings of Members in the Council. Mr Fred LI suggested that the Chairman of the House Committee should chair the subcommittee. The Chairman responded that she would leave it to the subcommittee to decide.

35. The Chairman proposed that pending the outcome of the review, the LegCo Secretariat could proceed with preliminary arrangements for the proposed visit to be undertaken by the FA Panel. Members agreed.

VII. Follow up on recommendations by The Ombudsman *(LC Paper No. CP 285/00-01)*

36. Referring to the paper, the Chairman said that at the meeting between Members and the Ombudsman on 5 December 2000, Members cited a complaint case and expressed concern about situations where the Ombudsman had considered the grievances valid and had made specific recommendations for rectification. The Administration then either implemented such recommendations partially or adopted alternative measures on account of resource or policy constraints. As the Ombudsman accepted the measures thus taken and decided to take no further action on

the cases in question, the persons aggrieved were left with their problems outstanding.

37. The Chairman further said that the Ombudsman had stressed that while her duty was to make judgments regarding administrative decisions and procedures, her judgments were not binding on the Administration or the organisation affected, and she had no power to substitute her decisions for those of government officials. The Chairman invited members' views on how the concern could be addressed as a matter of principle.

38. Mr LAU Kong-wah said that partial implementation of the Ombudsman's recommendation was unsatisfactory as the complainant's grievance had not been redressed. He further said that a case conference was held with the Administration on the complaint case which gave rise to the concern. However, the meeting was to no avail as the Administration had maintained its position.

39. Mr CHEUNG Man-kwong said that both the Ombudsman and LegCo had the responsibility to oversee the implementation of rectification measures for complaint cases. It was very unfair to the complainant that while the Ombudsman considered his complaint to be valid, his grievance had not been redressed.

40. Mr CHEUNG added that policy issues arising from complaint cases should be followed up by the relevant LegCo Panels. Dr YEUNG Sum concurred.

41. Dr YEUNG Sum further said that the Complaints Division could consider following up the complaint by, say, holding another case conference with the Administration. The Secretary General pointed out that action had already been taken by the Complaints Division on the case in question. He expressed doubts as to whether any useful purpose could be served by holding another case conference with the Administration.

42. The Chairman proposed that she would raise the matter with CS to obtain an initial response as to what could be done by the Administration to redress the grievances of the complainants in such situations. Members agreed.

VIII. Uploading the Register of Members' Interests onto the LegCo Web-site

(LC Paper No. CMI/14/00-01)

43. Mr David CHU, Chairman of the Committee on Members' Interest, said that the Committee had discussed the suggestion made by a member of the public that the Register of Members' Interests should be made available for public viewing on the LegCo Web-site. In its deliberation, the Committee had made reference to the practice in the United Kingdom and the United States, and concluded that the proposal would improve public accessibility to the Register. The Chairman said that the proposed arrangement would also enhance the image and transparency of the Council.

44. Mr CHU said that subject to Members' agreement, the Register of Members' Interest would be uploaded onto the LegCo Web-site with effect from 2 January 2001. Members agreed.

IX. Any other business

Briefings by the Administration held at short notice

(Secretary for Health and Welfare's letter dated 12 December 2000 attached)

45. Ms Cyd HO said that the issue was raised by Miss Emily LAU who had just left the meeting. Ms HO said that the briefing by the Secretary for Health and Welfare (SHW) on the Consultation Document on "Lifelong Investment in Health" was held at very short notice on 12 December 2000. The briefing also clashed with the meeting of the Panel on Home Affairs at 2:30 pm on the same day. She pointed out that it was only at 1:50 pm on that day that Members were informed by pager that SHW would give the briefing at 2:30 pm. Ms HO said that if the Administration wished to brief Members on any important matters or issues, it should give as much notice as possible to enable Members to attend such briefings.

46. Mr Fred LI reckoned that the briefing by SHW was held at short notice because the Administration had to await the decision of the meeting of the Executive Council held in that morning. He questioned the need for the agenda items of the Executive Council to be treated as confidential. He shared Ms HO's views that the Administration should give as much advance notice as possible to Members.

47. While agreeing that the Administration should give advance notice, Dr YEUNG Sum expressed appreciation for the effort made by SHW to brief Members on the Consultation Document on 12 December 2000, before briefing the media.

48. Mr SIN Chung-kai said that it was more important for Members to be briefed before the media than for Members to be briefed at a time convenient to all Members, but after the media had already been briefed. He said that the relevant Panel could schedule further meetings to discuss the issue or matter concerned, if necessary. Miss Margaret NG concurred with Mr SIN.

49. Mrs Sophie LEUNG, Chairman of the Panel on Health Services, informed Members that the Panel would further discuss the Consultation Document at its next meeting on 8 January 2001, and that all Members were welcome to attend.

50. The Chairman said that she would convey to CS Members' views that the Administration should brief Members on any important decisions and announcements before briefing the media, and that the Administration should give as much advance notice as possible to enable Members to attend the briefings.

51. There being no further business, the meeting ended at 5:30 pm.