

立法會
Legislative Council

LC Paper No. CB(2) 1118/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 21st meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 16 March 2001**

Members present :

Hon Mrs Selina CHOW LIANG Shuk-yee, 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 Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, 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 CHAN Kwok-keung
Hon CHAN Yuen-han
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 Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung
Hon LAU Chin-shek, JP

Hon LAU Kong-wah
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 Andrew CHENG Kar-foo
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
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 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 LEE Cheuk-yan
Hon Bernard CHAN
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, 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
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
Mr Stephen LAM	Assistant Legal Adviser 4
Mr Arthur CHEUNG	Assistant Legal Adviser 5
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Miss Salumi CHAN	Chief Assistant Secretary (1)5
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 20th meeting held on 9 March 2001

(LC Paper No. CB(2) 1051/00-01)

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 the Administration had asked that scrutiny of the Chief Executive Election Bill be given top priority. The Director of Administration's letter dated 15 March 2001 on the matter was tabled at the meeting. The Chairman further said that as vacant Bills Committee slots were available, the Bills Committee on the Bill, should Members decide to form one, could commence 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)

(i) Chief Executive Election Bill
(LC Paper No. LS 71/00-01)

3. Referring to the report, the Legal Adviser said that the Bill provided for the legal framework for the election of the Chief Executive. It also provided for the constitution of the Election Committee and

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supervision of the election of Chief Executive by the Electoral Affairs Commission. The Legal Adviser recommended that a Bills Committee should be formed to examine the Bill in detail.

4. The Chairman proposed that a Bills Committee should be formed. Members agreed. The following Members agreed to join : Mr James TIEN, Ms Cyd HO, Mr Eric LI, Mr NG Leung-sing, Prof, NG Ching-fai, Miss Margaret NG, Mr Andrew WONG, Dr Philip WONG, Mr Howard YOUNG (as advised by Mr James TIEN), Dr YEUNG Sum, Miss Emily LAU, Mr SZETO Wah, Mr Abraham SHEK, Mr Michael MAK, Mr LEUNG Fu-wah, Mr IP Kwok-him, Mr LAU Ping-cheung and Ms Audrey EU.

(ii) Interest Rates (Miscellaneous Amendments) Bill 2001
(LC Paper No. LS 67/00-01)

5. Introducing the paper, the Legal Adviser said that the Bill re-defined the interest rates applicable to provisional payments, compensation and redemption money payable under the various ordinances and their subsidiary legislation, subsequent to the phased de-regulation of the Interest Rates Rules from 3 July 2000. The Legal Adviser further said that the Bill proposed to amend the relevant provisions so that reference would be made to the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on a day.

6. The Legal Adviser added that the amendments were technical in nature, and that the legal and drafting aspects of the Bill were in order. Subject to Members' views, the Bill was ready for resumption of the Second Reading debate.

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

(iii) Industrial Training (Construction Industry)
(Amendment) Bill 2001
(LC Paper No. LS 68/00-01)

8. Presenting the paper, the Legal Adviser said that the Bill had one single purpose, i.e. to expand the functions of the Construction Industry Training Authority (CITA) to empower it to make arrangements for and to cover the costs of the medical examination of persons who were or were to be employed in certain specified occupations in the construction industry.

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9. The Legal Adviser explained that the Bill was introduced in preparation for a regulation to be made under the Factories and Industrial Undertakings Ordinance which would provide for the proposed mandatory medical examinations of persons employed in work involving exposure to and the use of hazardous substances and physical agents. The Legal Adviser said that as the implementation of the Bill was dependent on and subsidiary to the making of the proposed regulation to be introduced, it was for Members to consider whether to set up a Bills Committee immediately or to defer making a decision until Members had come to a view on the proposed regulation to be introduced.

10. Dr YEUNG Sum expressed support for deferring a decision on the Bill as the related regulation had yet to be introduced.

11. Miss Margaret NG asked whether it was the Administration's intention to seek Members' views on the general principle of the legislative proposals in order to prepare for the regulation to be made under the Factories and Industrial Undertaking Ordinance.

12. Ir Dr Raymond HO also sought clarification on whether the Bill had to be introduced ahead of the proposed regulation, or vice versa.

13. The Legal Adviser explained that the Bill only proposed that CITA would act as an agent for the medical examination arrangements for persons employed in certain prescribed occupations in the construction industry. This was in preparation for the implementation of the mandatory medical examinations which would be prescribed in a regulation under the Factories and Industrial Undertakings Ordinance. The Legal Adviser added that to cover the costs to CITA in carrying out the proposed function, the Administration would be proposing to increase the existing levy (at 0.4%) collected from the construction industry by CITA by 0.03%. The increase would have to be approved by resolution of the Council. The Legal Adviser pointed out that the Bill, the resolution and the proposed regulation must be in place before the proposed mandatory medical examination arrangements could be implemented in accordance with the proposed mechanism.

14. Mr Andrew WONG said that the proposed regulation needed not be introduced separately. It could have been incorporated in the Bill as consequential amendments so that Members could examine these legislative proposals together.

15. The Legal Adviser agreed that it was technically feasible to introduce a miscellaneous amendments bill to amend the relevant legislation. He pointed out that it was the Administration's original intention to introduce the proposed regulation first. However, during the

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scrutiny of the proposed regulation by a subcommittee formed in the last term, it was considered that the proposed regulation might be inconsistent with the provisions on sick leave and continuous employment in the Employment Ordinance. Further examination was required to determine whether amendment to the Employment Ordinance was necessary. The Legal Adviser added that the Administration had indicated that it would introduce the proposed regulation shortly.

16. Mr TAM Yiu-chung said that the proposed regulation was studied by the Subcommittee on Regulations Relating to Occupational Safety and Health in the last term. The Subcommittee noted that the proposed regulation might contradict certain provisions in the Employment Ordinance. The Hong Kong Construction Association had also expressed concern about the proposed regulation. The Administration therefore agreed to re-consider the proposed regulation. Since the present Bill was only to provide a legal framework for CITA to implement the medical examination arrangements if the proposed regulation was available, the Bill and the proposed regulation could be examined together.

17. The Chairman said that if Members agreed to the proposed regulation after scrutiny, a Bills Committee might not be necessary to study the Bill which was relatively straightforward. The Chairman proposed that the Bill should be held in abeyance pending the introduction of the proposed regulation. Members agreed.

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

(LC Paper No. LS 61/00-01)

18. Referring to the paper, the Legal Adviser said that the Bill introduced technical amendments to streamline the registration process for ships in Hong Kong. These included accepting copy of the builders' certificate or the copy bill of sale for provisional ship registration, and shortening the period of such registration from three months to one month. The Legal Adviser added that the House Committee had considered at a previous meeting the Merchant Shipping (Registration) (Fees and Charges) (Amendment) Regulation 2001. He said that Members had not raised queries on the Regulation which sought to amend the percentage of the amount payable in respect of a provisionally registered ship and 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.

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19. The Legal Adviser added that the legal and drafting aspects of the Bill were in order. Subject to Members' views, the Bill was ready for resumption of Second Reading debate.

20. Mr James TIEN said that the Panel on Economic Services had discussed the legislative proposals on 19 December 2000 and had expressed support for the Bill. The Panel also noted that the Shipping Consultative Committee had been consulted and supported the proposals.

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

(b) **Legal Service Division's report on Public Revenue Protection (Revenue) Order 2001 made under section 2 of the Public Revenue Protection Ordinance (Cap. 120)**
(LC Paper No. LS 72/00-01)

22. The Legal Adviser explained that the Order was a temporary measure made under the Public Revenue Protection Ordinance to give effect to certain revenue proposals announced in the Budget Speech delivered by the Financial Secretary on 7 March 2001 when moving the Second Reading of the Appropriation Bill 2001. He also referred Members to the Annex to the paper which set out the legal effect of the Bill contained in the Order and the corresponding parts of the Budget Speech to which the proposals were referred.

23. The Legal Adviser added that the Legal Service Division was seeking clarification from the Administration on the mechanism for apportioning the appropriate annual licence fee for a motor vehicle if 7 March 2001 fell within the unlicensed period.

24. Mr CHAN Kam-lam said that the measures contained in the Order were straightforward and a subcommittee was not necessary.

25. The Chairman advised that Members had the power to repeal the Order but could not amend the provisions therein. A repeal of the Order had to be made by 4 April 2001, or 25 April 2001 if the intervention period was extended by resolution by the Council.

(c) **Legal Service Division's report on subsidiary legislation tabled in Council on 14 March 2001 (gazetted on 9 March 2001)**
(LC Paper No. LS 73/00-01)

26. The Legal Adviser said that four items of subsidiary legislation were gazetted on 9 March 2001, including two Orders made under the Public Health and Municipal Services Ordinance to vest the management

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and control of the Hong Kong Central Library and the Lecture Theatre and the Exhibition Gallery of the Hong Kong Central Library in the Director of Leisure and Cultural Services.

27. As regards the Audit Ordinance (Amendment of Schedule 1) Notice 2001, the Legal Adviser said that the subsidiary legislation sought to empower the Official Receiver when acting as nominee under an approved voluntary arrangement to operate funds in the voluntary arrangement. Technical issues raised by the Legal Service Division had been clarified by the Administration in its letter attached to the Report. He added that the Notice came into effect on 9 March 2001.

28. Members did not raise any queries on these three items of subsidiary legislation.

29. As regards the Factories and Industrial Undertakings Ordinance (Cap. 59) (Appointed Day under Section 6BA(17)) Notice, the Legal Adviser said that the Notice appointed 1 May 2001 for the purposes of section 6BA(5), (7) and (8) of the Factories and Industrial Undertakings Ordinance. As from 1 May 2001, employees of the relevant industrial undertakings (construction work and container handling) would have to possess a certificate in respect of their attendance at a recognised safety training course and carry the certificate with them while at work at the undertakings.

30. Mrs Miriam LAU said that the industry had expressed concern about the effective date as some workers in the relevant industrial undertakings might not be able to attend the safety training courses before 1 May 2001 because of insufficient training places. She further said that the Labour Department had estimated that about 5 300 workers in the container handling industry were required to attend the safety training courses, and so far some 6 000 persons had attended such courses. However, according to the industry, some employees in the relevant undertakings had still not received such training. Mrs LAU suggested that a subcommittee be formed to ascertain the actual progress in arranging safety training for all relevant employees. She said that if it was not possible for all relevant employees in the specified industrial undertakings to attend the safety training courses before 1 May 2001, consideration might be given to deferring the effective date.

31. The Chairman proposed that a subcommittee be formed to study this item of subsidiary legislation. Members agreed. The following Members agreed to join : Ms Cyd HO, Mr LAU Chin-shek, Mrs Miriam LAU, Mr Andrew CHENG, Ms LI Fung-ying and Mr LEUNG Fu-wah.

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32. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 4 April 2001, or 25 April 2001 if extended by resolution.

IV. Further business for the Council meeting on 28 and 29 March 2001

Questions

(LC Paper No. CB(3) 508/00-01)

33. The Chairman said that 20 written questions had been scheduled.

V. Bills Committee and subcommittee reports

(a) Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 1068/00-01)

34. The Chairman said that there were 13 Bills Committees and four subcommittees in action, and one Bills Committee on the waiting list. As the Bills Committee on Employment (Amendment) (No.2) Bill 2000 and the Bills Committee on Education (Amendment) Bill 2000 would report respectively under (b) and (c) below, the vacant slots would be taken up by the Bills Committee on Public Health and Municipal Services (Amendment) Bill 2001 and the Bills Committee on Chief Executive Election Bill.

(b) Report of the Bills Committee on Employment (Amendment) (No.2) Bill 2000

(LC Paper No. CB(2) 997/00-01)

35. Introducing the paper, Mr Andrew CHENG Kar-foo, Chairman of the Bills Committee, said that the Bill sought to clarify certain provisions of the Employment Ordinance and make technical amendments consequential to the removal of all women-specific provisions and references to women in the Women and Young Persons (Industry) Regulations.

36. Mr Andrew CHENG further said that the Bills Committee's main concern was the proposed amendments to provisions for protecting employees against dismissal during pregnancy or paid sick leave. Members were worried that the presumption in the proposed provisions might create undue pressure on Government to take out prosecutions against employers who had dismissed pregnant employees or employees on sick leave summarily, and would therefore cause undue hardship to employers. To address members' concern, the Administration had

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proposed to combine section 15(1B) with section 15(5) and section 33(4BAA) with section 33(4BC) to the effect that the presumption would not be invoked if the employer could prove that -

- (a) the termination of an employee's contract was made in accordance with section 9 of the Ordinance; or
- (b) he reasonably believed that he had a ground to terminate the contract of the employee summarily under section 9 of the Ordinance.

37. Mr James TIEN said that he and some other Bills Committee members were originally concerned about the proposed wording of new sections 15(1B) and 33(4BAA). Now that the Administration had agreed to amend the sections, he would support the Bill and the Committee Stage amendments (CSAs) proposed by the Administration.

38. Mr Andrew CHENG said that the Bills Committee supported the Bill and the Administration's proposed CSAs. The Bills Committee recommended resumption of the Second Reading debate on the Bill on 4 April 2001.

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

(c) **Report of the Bills Committee on Education (Amendment) Bill 2000**

(LC Paper No. CB(2) 1067/00-01)

40. Referring to the report, Mr CHEUNG Man-kwong, Chairman of the Bills Committee, said that the Bills Committee's deliberations were mainly focused on the time limit for prosecution under the Education Ordinance and control over schools' advertisements containing false or misleading information. He said that members were of the view that the proposed relaxation of the time limit for prosecution should be restricted to those offences which were of great concern to the community, such as over-enrolment and over-charging. The Administration had agreed to introduce CSAs to this effect.

41. Mr CHEUNG Man-kwong further said that in response to a previous suggestion of the Panel on Education, the Bill also proposed to increase the fine for false or incorrect school advertisements, from \$25,000 to \$100,000. The purpose was to provide greater deterrence against misleading advertising on schools.

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42. Mr CHEUNG said that the Bills Committee supported the Bill and the CSAs to be moved by the Administration. The Bills Committee also recommended resumption of the Second Reading debate on the Bill on 4 April 2001.

43. Members did not raise objection to the resumption of the second Reading debate on the Bill.

VI. Paper of the Committee on Rules of Procedure on Amendments to House Rules

(LC Paper No. CB(1) 825/00-01)

44. Miss Margaret NG, Deputy Chairman of the Committee on Rules of Procedure, introduced the paper on behalf of Mr TSANG Yok-sing, Chairman of the Committee.

45. Miss Margaret NG said that the Committee had reviewed a number of provisions in the House Rules in order to streamline certain procedural arrangements, including -

- (a) procedure for the House Committee to recommend speaking time for debates on motions with no legislative effect (rule 17);
- (b) arrangements and deadline for signification of Panel membership (rule 22); and
- (c) procedure for election of Chairman and Deputy Chairman of committees (Appendix IV of House Rules).

46. Miss NG added that editorial changes were also made to the Chinese text of the House Rules to refine its wording.

47. Members endorsed the proposed amendments to the House Rules as set out in Appendices I - VI of the paper.

48. Mr CHAN Kam-lam suggested that the procedure to shorten the ringing of the division bell from three minutes to one minute should be streamlined. The Chairman proposed that Mr CHAN's suggestion be referred to the Committee on Rules of Procedure for consideration. Members agreed.

VII. Any other business

(a) Proposed invitation to Mr Donald TSANG and Mr Antony LEUNG to attend House Committee meeting

(Hon Emily LAU Wai-hing's letter of 13 March 2001 to Chairman of the House Committee attached)

49. Referring to her letter, Miss Emily LAU said that she proposed to invite CS (Designate) and Financial Secretary (FS) (Designate) to separately attend a House Committee meeting to talk about their aspirations and plans for their new positions, as soon as they had formally assumed office on 1 May 2001. She also requested that CS (Designate) and FS (Designate) should provide more information on their academic background and working experience.

50. Dr YEUNG Sum said that Members belonging to the Democratic Party supported Miss LAU's proposal. He considered that the meetings would also enable Members to give their views on the plans of CS (Designate) and FS (Designate). He hoped that eventually a system would be put in place whereby before the appointment of a principal official, the individual would meet with Members to talk about his/her aspirations and also to answer Members' questions.

51. Mr IP Kwok-him said that while he did not object to the proposed invitation, Members should respect the wish of CS (Designate) and FS (Designate) as to whether or not to accept the invitation.

52. The Chairman said that as Members had raised no objection to the proposal, she would write to CS (Designate) and FS (Designate).

(b) Proposed arrangements for valedictory to Mrs Anson CHAN (CS) on her retirement

53. The Chairman said that Mr LAU Chin-shek had proposed that she should move a motion, on behalf of the House Committee, to bid farewell to Mrs Anson CHAN (CS). Although the item was not on the agenda, she had allowed Mr LAU to raise the matter at this meeting because the proposed motion, if agreed to by Members, would be moved at the Council meeting on 25 April 2001. However, as Members would need time to consider the matter, she would propose that a decision be deferred to the next meeting.

54. Mr LAU Chin-shek explained that the purpose of the proposed motion debate was to provide an opportunity for Members to bid farewell to and also to thank Mrs Anson CHAN for her contribution in her over 30 years of service, in particular, in leading the civil service through the

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transitional period before and after 1 July 1997. He said that Mrs Anson CHAN could also speak on the motion, if she so wished.

55. Mr Eric LI enquired about the practice of the former Council regarding valedictory speeches. He also suggested that reference should be made to the practices in overseas legislatures. The Secretary General said that before the 1995-97 term, there had been occasions where valedictory speeches were made at Council sittings to bid farewell to ex-officio and Official Members of the Council upon their retirement. However, the provision for valedictory speeches was deleted from the Standing Orders in 1995, as there were no longer ex-officio and Official Members in the Council, as from the 1995-97 term.

56. Mr Andrew WONG said that it might not be necessary to hold a motion debate to bid farewell to CS. He considered that valedictory speeches could be regarded as a form of "ceremonial speeches" under Rule 18(1)(b) of the Rules of Procedure.

57. Mr James TIEN said that there had been occasions where "valedictory" motions were moved for Members to make "valedictory" speeches at the end of a term, and not for Members to bid farewell to government officials. He added that relevant information on the practice in the former Council regarding valedictory speeches to bid farewell to government officials be provided. Mr James TIEN further said that as Mr LAU's proposal was not on the agenda and Members had to discuss amongst themselves before taking a view, the matter should be considered at the next House Committee meeting.

58. Mr Fred LI, Mr Eric LI, Dr YEUNG Sum, Miss CHAN Yuen-han and Mr IP Kwok-him agreed with Mr TIEN that a decision on the matter should be deferred to the next House Committee meeting.

59. Mr Fred LI and Miss Margaret NG said that it would not be necessary to conduct research on practices in overseas legislatures as their practices would unlikely be applicable to Hong Kong. Regarding Mr Andrew WONG's view that "valedictory speeches" could be given as "ceremonial speeches" under Rule 18(1)(b), Mr Fred LI said that it was not clear whether this was procedurally in order and whether CS could also speak, if she so wished. He therefore preferred the proposal of a Member's motion, which should be couched in neutral terms, so that both Members and CS could speak on the motion.

60. Miss Emily LAU suggested that the wording of the proposed motion should be provided to Members for consideration. She hoped that no amendments would be moved to the motion once the wording had been agreed to by the House Committee.

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61. Mr Howard YOUNG said that in considering whether a motion debate should be held to bid CS farewell on this occasion, Members should also have regard to whether similar motions would be moved in future for the Chief Executive and principal officials upon their retirement or leaving their office.

62. The Chairman said that the matter would be further considered at the next House Committee meeting. She also requested the Secretariat to provide relevant information on the practice regarding valedictory speeches in the former Council. Members agreed.

(c) **Subcommittee on Members' Remuneration and Operating Expenses Reimbursement**

63. Mr NG Leung-sing, Chairman of the Subcommittee, informed Members that the Subcommittee would hold a meeting on 23 April 2001 to further discuss the issue of retirement benefits for Members. Members would be invited to attend the meeting to give their views. In this connection, a circular would be issued by the Secretariat.

64. There being no further business, the meeting ended at 3:30 pm.

Legislative Council Secretariat
21 March 2001