

立法會
Legislative Council

LC Paper No. CB(2) 1602/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 28th meeting
held in the Legislative Council Chamber
at 4:10 pm on Friday, 18 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 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 LUI Ming-wah, JP

Hon NG Leung-sing

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 LEUNG Yiu-chung

Hon SIN Chung-kai

Hon Andrew WONG Wang-fat, JP

Hon WONG Yung-kan

Hon Jasper TSANG Yok-sing, JP

Hon Howard YOUNG, JP

Dr Hon YEUNG Sum

Hon YEUNG Yiu-chung

Hon LAU Chin-shek, JP

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 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 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
Dr Hon David LI Kwok-po, JP
Prof Hon NG Ching-fai
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon Philip WONG Yu-hong
Hon LAU Wong-fat, GBS, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Albert CHAN Wai-yip

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
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Betty MA	Senior Assistant Secretary (2)1

Action

I. Confirmation of the minutes of the 27th meeting held on 11 May 2001
(*LC Paper No. CB(2) 1534/00-01*)

The minutes were confirmed.

II. Matters arising

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

2. Regarding the scrutiny of the Telecommunications (Amendment) Bill 2001, the Chairman said that she had stressed that Members did not wish to delay the auction.

III. Legal Service Division's report on bills referred to the House Committee in accordance with Rule 54(4)

Massage Establishments (Amendment) Bill 2001
(*LC Paper No. LS 91/00-01*)

3. The Legal Adviser said that the Bill sought to exempt certain types of massage establishments from the application of the Massage Establishments Ordinance and to narrow down the scope of control of those establishments to premises offering full-body massage by persons to customers of the opposite sex. The Bill also proposed to streamline the existing licensing procedures.

4. The Legal Adviser further explained that the Massage Establishments Ordinance presently provided for the control and licensing of massage establishments with a view to controlling vice activities in

Action

those establishments. He added that a consultancy study was carried out in 1999 to review the Ordinance and the related regulatory control exercised by the Police. The consultant had pointed out that the present scope of control was too wide and might unnecessarily regulate establishments that did not appear to be prone to vice activities.

5. The Legal Adviser said that Members might wish to form a Bills Committee to study the policy aspects of the Bill, in particular, the extent of the proposed relaxation of control over massage establishments and the effectiveness of police control over vice activities in those massage establishments where licensing control would be lifted.

6. The Chairman said that some members of the Panel on Security had suggested further relaxation of the scope of control when the Panel was earlier briefed on the Bill. She added that the industry might have views on the Bill as the Complaints Division had handled a number of cases concerning control and licensing of massage establishments.

7. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mrs Selina CHOW, Miss Margaret NG, Mr James TO, Miss CHAN Yuen-han and Mr LAU Kong-wah.

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

IV. Further business for the Council meeting on 23 May 2001

(a) Questions

(LC Paper No. CB(3) 672/00-01)

9. The Chairman drew Members' attention to the new oral question to be raised by Hon CHOY So-yuk at the Council meeting on 23 May 2001.

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

(i) Mandatory Provident Fund Schemes (Amendment) Bill 2001

(ii) Companies (Corporate Rescue) Bill

10. The Chairman said that the above two Bills would be introduced into the Council on 23 May 2001 and considered by the House Committee on 25 May 2001.

V. Business for the Council meeting on 30 May 2001

(a) Questions

(LC Paper No. CB(3) 673/00-01)

11. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 30 May 2001.

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

The Ombudsman (Amendment) Bill 2001

12. The Chairman said that the Bill would be introduced into the Council on 30 May 2001 and considered by the House Committee on 1 June 2001.

(c) Government motion

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

(d) Members' motions

(i) Motion on "Attracting eligible persons from the Mainland to invest and spend money in Hong Kong"

14. The Chairman said that the motion would be moved by Mr James TIEN Pei-chun and the draft wording had been issued to Members.

(ii) Motion on "Assisting owners' corporations and mutual aid committees to operate"

15. The Chairman said that the motion would be moved by Mr TAM Yiu-chung and the draft wording had been issued to Members.

16. The Chairman reminded Members that the deadline for giving notice of amendments was 23 May 2001.

VI. Advance information on business for the Council meeting on 6 June 2001

Bills - First Reading and moving of Second Reading

Post Secondary Colleges (Amendment) Bill 2001

17. The Chairman said that the Bill would be introduced into the Council on 6 June 2001 and considered by the House Committee on 8 June 2001.

VII. Bills Committee and subcommittee reports

Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 1538/00-01)

18. The Chairman said that there were 15 Bills Committees and four subcommittees in action. The Bills Committee on the Revenue (No.3) Bill 2001, the Bills Committee on the Banking (Amendment) Bill 2001 and the Bills Committee on the Massage Establishments (Amendment) Bill 2001 were on the waiting list.

VIII. Report of the Panel on Administration of Justice and Legal Services on the applicability of Ordinances to the offices set up by the Central People's Government in the Hong Kong Special Administrative Region

(LC Paper No. CB(2) 1563/00-01)

19. Miss Margaret NG, Chairman of the Panel on Administration of Justice and Legal Services (AJLS Panel), said that the Panel had been following up the issue of applicability of Ordinances to the offices set up by the Central People's Government (CPG) in the Hong Kong Special Administrative Region (HKSAR). Miss NG explained that under Article 22 of the Basic Law, all CPG offices and the personnel of these offices should abide by the laws of the HKSAR. As a related matter, the Administration had undertaken to review 17 Ordinances which expressly applied to the HKSAR Government but were otherwise silent as to their applicability to the CPG offices.

20. Miss Margaret NG said that the Panel was informed by the Administration in 1998 that the preliminary results of the review were that, as a matter of policy, 15 of these 17 Ordinances should apply to the CPG offices. Miss NG further said that although the Administration had undertaken in 1999 to come up with an appropriate formula to extend the applicability of the Ordinance to CPG offices, no progress had so far been made.

Action

21. As regards the remaining two Ordinances, Miss NG informed Members that the Administration had advised that the Social Workers Registration Ordinance was found to be of no relevance to either the Government or CPG offices in the HKSAR, while the Personal Data (Privacy) Ordinance involved complicated issues and needed to be carefully examined before the Administration could make any recommendation. Miss NG pointed out that the Panel was dissatisfied with the progress of the review of the Personal Data (Privacy) Ordinance, particularly the prolonged discussions held with the CPG. The Panel had suggested that the Administration should bring the matter to the attention of the Chief Executive in order that the matter could be resolved early with the involvement of both sides at a higher level.

22. Miss Margaret NG further informed Members that of the 53 Ordinances that were expressed to bind, or apply to, the "Crown", only 18 of them had already been either wholly or partly adapted. The Panel therefore recommended that the Chairman should convey to CS the views of the Panel as set out in paragraphs 15 to 17 of the paper.

23. Dr YEUNG Sum expressed support for the Panel's recommendation.

24. Miss Emily LAU said that she was a member of the AJLS Panel. The Panel had expressed grave concern about the slow progress of adaptation of Ordinances that should apply to the CPG offices in the HKSAR. Miss LAU further said that to uphold the rule of law, the Ordinances in question had to be adapted as soon as possible and that the matter should be brought to the attention of CS. As regards the Personal Data (Privacy) Ordinance, Miss LAU was of the view that the Administration should set a date beyond which if no response was received from the Hong Kong and Macau Affairs Office, the Administration would proceed with the adaptation of the Ordinance. Miss LAU stressed that the executive authorities had to act in accordance with the law.

25. The Chairman said that she would convey to CS the views of the Panel as set out in paragraphs 15 to 17 of the paper and also urge the Administration to proceed with the adaptation of the Ordinances in question expeditiously.

IX. Any other business

Preparation of information briefs/background papers for committee meetings

(Hon Emily LAU Wai-hing's letter of 14 May 2001 to Chairman of the House Committee attached)

26. Referring to her letter, Miss Emily LAU said that given that the workload of Members had become increasingly heavy, committee clerks should strengthen support to committees by rendering assistance in analysing and studying issues and providing background information to Members. Miss LAU pointed out that at present, such support was already provided by some and not all committee clerks.

27. The Chairman said that information briefs and background papers were sometimes prepared by committee clerks. She pointed out that although Miss LAU's proposal did not involve a policy change in the functions of a committee clerk, it had resource implications which would have to be looked into by the Secretary General, if the House Committee agreed to Miss LAU's proposal.

28. Dr YEUNG Sum expressed support for Miss LAU's proposal. He also expressed appreciation for the services presently provided by committee clerks and research officers, and added that the proposal would further enhance the support services provided by the LegCo Secretariat for Members. Dr YEUNG added that the Chairman should raise with CS that necessary resources should be provided to the LegCo Secretariat.

29. Miss Margaret NG also expressed support for Miss Emily LAU's proposal. She said that the research reports on "The Process of Appointment of Judges in Some Foreign Countries" prepared for the AJLS Panel, for instance, were very useful. She pointed out that sometimes the deliberation of an issue could not be proceeded with because the relevant committee did not have sufficient information on the issue. Members would then have to wait for the Administration to provide further information; hence the committee's time was wasted.

30. Miss Margaret NG further said that committee clerks were professional staff. They had good knowledge of the issues studied by committees and they generally knew what background information Members required. Miss NG added that the membership of the Council might change from term to term. Members would have to rely on committee clerks to render assistance in following up issues and monitoring their developments. Miss NG suggested that prior to each meeting, the committee clerk concerned should discuss with the Chairman of the relevant committee what information briefs or background papers should be prepared for the meeting.

Action

31. Mr TSANG Yok-sing pointed out that the background papers prepared by clerks for committees, for example the Committee on Rules of Procedure, were very useful. He therefore had no objection to requesting committee clerks to prepare more information briefs or background papers for committee meetings, if the committee concerned considered that there was such a need. Mr TSANG, however, disagreed with the remark in Miss LAU's letter that preparing minutes of meetings could be adequately undertaken by general clerical staff. He considered that preparing minutes of meetings was an important and difficult task.

32. Mr TAM Yiu-chung said that he also had no objection to requesting committee clerks to prepare more background papers. He further said that the Panel on Public Service had earlier discussed the system of declaration of investments by civil servants and the Secretariat had provided very detailed information on the declaration systems in some overseas countries for the Panel's reference. However, Mr TAM pointed out that it would be difficult, if not impossible, to provide background information on each and every item to be discussed at a committee meeting. He considered that not every agenda item warranted the preparation of a background paper by the committee clerk concerned. Mr TAM further said that he agreed with Mr TSANG Yok-sing that the work of committee clerks should not be belittled.

33. The Chairman pointed out that Miss LAU's proposal was to request committee clerks to collate background information on discussion items and also provide analyses comparing, for instance, the contents of papers presented by the Administration with the views expressed by the public and Members on the issues concerned. The Chairman said that Miss LAU's proposal was not to request committee clerks to conduct in-depth research studies.

34. The Secretary General said that presently, committee clerks prepared information briefs and background papers on a selective basis, either at the request of the relevant committee or at the initiative of the committee clerk concerned. He informed Members that in the recent review of staff resources carried out by The Legislative Council Commission, Council Business Divisions 1 and 2 had put forward bids for more staff in order to strengthen support services for committees. He added that the LegCo Secretariat would study in detail as to how Miss LAU's proposal could be implemented.

35. Mr CHAN Kwok-keung said that the performance of committee clerks was highly satisfactory. He added that as the Chairman of the Establishment Subcommittee (ESC), he was provided with a very

Action

comprehensive and useful brief before each ESC meeting. He suggested that other ESC members should also be given a copy of the brief.

36. Miss Emily LAU clarified that she had no intention of belittling the work of committee clerks. She said that as committee clerks were experts in specific policy areas, they should focus their efforts on assisting committees in analysing and studying issues, rather than preoccupying themselves with the preparation of minutes of meetings, which were for record purpose only. She added that some bureau secretaries had reflected to her that there had been delay in the preparation of the minutes of some meetings.

37. The Secretary General said that committee clerks had always endeavoured to prepare minutes of meetings expeditiously. However, their work was sometimes affected by the large number of special meetings being held.

38. Miss Emily LAU said that although The Legislative Council Commission had reviewed and approved the Secretariat's proposals for additional staff resources, they would still require the Administration's agreement. She suggested that the matter be raised with CS. The Chairman responded that at the special meeting, CS had undertaken that he would consider how the "hardware", including a new LegCo building and Members' remuneration and operating expenses reimbursement, could be improved to facilitate the Council's work. Her understanding was that "hardware" also included resources for the LegCo Secretariat. She would raise with CS that the Commission should be given the necessary resources to enable the Secretariat to cope with the additional work.

39. The Chairman said that Members did not express any dissenting views on Miss LAU's proposal. She would like to stress that Members appreciated and valued the work of the Secretariat. The Chairman added that it would be for The Legislative Council Commission, and not the House Committee, to discuss matters relating to resources. The Chairman also informed Members that a working group had been set up by the Commission to review the organisation and structure of the Secretariat.

40. There being no further business, the meeting ended at 4:45 pm.