

**立法會**  
***Legislative Council***

LC Paper No. CB(2) 1354/00-01

Ref : CB2/H/5

**House Committee of the Legislative Council**

**Minutes of the 24<sup>th</sup> meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 20 April 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  
Ir Dr Hon Raymond HO Chung-tai, JP  
Hon LEE Cheuk-yan  
Dr Hon LUI Ming-wah, JP  
Hon NG Leung-sing  
Prof Hon NG Ching-fai  
Hon Margaret NG  
Hon CHEUNG Man-kwong  
Hon HUI Cheung-ching  
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  
Hon Andrew WONG Wang-fat, JP  
Dr Hon Philip WONG Yu-hong  
Hon Jasper TSANG Yok-sing, 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-ye, JP

Hon Ambrose LAU Hon-chuen, JP  
Hon Emily LAU Wai-hing, JP  
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 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  
Hon Frederick FUNG Kin-kee  
Hon IP Kwok-him, JP  
Hon LAU Ping-cheung  
Hon Audrey EU Yuet-mee, SC, JP

**Members absent :**

Hon Albert HO Chun-yan  
Hon Martin LEE Chu-ming, SC, JP  
Hon Eric LI Ka-cheung, JP  
Dr Hon David LI Kwok-po, JP  
Hon James TO Kun-sun  
Hon WONG Yung-kan  
Hon Howard YOUNG, JP  
Hon CHOY So-yuk  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Dr Hon LO Wing-lok  
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
Ms Bernice WONG	Assistant Legal Adviser 1
Mr Stephen LAM	Assistant Legal Adviser 4
Mr Arthur CHEUNG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
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 23rd meeting held on 30 March 2001**

*(LC Paper No. CB(2) 1221/00-01)*

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 CS was informed that Mr Donald TSANG, CS (Designate), and Mr Antony LEUNG, Financial Secretary (Designate), had replied to Members' invitation to separately attend a meeting of the House Committee.

3. The Chairman added that, as proposed by Mr LEUNG, the Panel on Financial Affairs would follow up arrangements for Mr LEUNG to attend the Panel meeting on 4 June 2001 to exchange views with Members on issues of mutual concern, in addition to giving a briefing on Hong Kong's latest economic situation.

**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) Attachment of Income Order (Amendment) Bill 2001**  
*(LC Paper No. LS 84/00-01)*

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4. Referring to the report, the Legal Adviser said that the Bill sought to implement some of the recommendations made by the Inter-departmental Working Group set up by the Administration to review the legal and administrative measures affecting maintenance payees. He explained that the Bill proposed identical amendments to three Ordinances, namely, the Guardianship of Minors Ordinance, the Separation and Maintenance Orders Ordinance and the Matrimonial Proceedings and Property Ordinance in relation to the making of attachment of income orders.

5. The Legal Adviser further explained that the Bill proposed to add two more situations for the court to make an attachment of income order as well as to dispense with or relax any procedures or abridge any time limits specified in the Attachment of Income Orders Rules.

6. The Legal Adviser added that according to the Legislative Council (LegCo) Brief on the Bill, the Administration had consulted the Hong Kong Bar Association, the Law Society of Hong Kong and other concerned parties and they had not expressed any adverse comments. He informed Members that the Law Society had in fact written to the LegCo Secretariat on 6 April 2001 indicating that its Family Law Committee had reviewed the Bill and supported the proposed amendments.

7. The Legal Adviser advised that the legal and drafting aspects of the Bill were in order. It would be for Members to consider whether a Bills Committee was necessary.

8. Ms Cyd HO pointed out that although the Panel on Home Affairs was consulted on the Working Group's recommendations on 2 June 2000, the discussion mainly focused on the need for an intermediary body to collect maintenance payments. She was of the view that a Bills Committee should be set up to study the Bill in detail.

9. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join the Bills Committee : Ms Cyd HO, Mr CHEUNG Man-kwong, Mr LAW Chi-kwong and Ms Audrey EU.

**(ii) Banking (Amendment) Bill 2001**  
*(LC Paper No. LS 76/00-01)*

10. Introducing the paper, the Legal Adviser explained that the Bill sought to introduce a number of amendments to improve the operation of the Banking Ordinance. The amendments included provisions for the control over the places of business of Authorized Institutions (AIs); the regulation of internet advertisements for deposits; the maintenance by AIs

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of adequate systems of control to ensure the fitness and properness of their "managers"; and the rationalisation of the availability of the general defence provision in the Banking Ordinance. The Legal Adviser pointed out that the Panel on Financial Affairs was briefed on the Bill at its meeting on 4 December 2000.

11. The Legal Adviser further said that the Legal Service Division had earlier sought clarification from the Administration on certain legal and drafting aspects of the Bill and was now studying the Administration's response. A further report would be made to the House Committee.

12. The Chairman proposed that a decision on the Bill be deferred pending the further report from the Legal Service Division. Members agreed.

**(b) Legal Service Division's report on subsidiary legislation tabled in Council on 4 April 2001 (gazetted on 30 March 2001)**  
*(LC Paper No. LS 82/00-01)*

13. The Legal Adviser said that three items of subsidiary legislation were gazetted on 30 March 2001 and tabled in Council on 4 April 2001. As regards the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice, the Legal Adviser explained that it sought to exempt certain companies and prospectuses from compliance with the requirements of certain provisions of the Companies Ordinance. He further said that according to the LegCo Brief on the Notice, these exemption measures were made in support of the overall Government policy on environmental protection; they would at the same time reduce cost to companies without undermining the quality of information to investors. The Legal Adviser added that the legal and drafting aspects of the Notice were in order.

14. Members did not raise any query on the three items of subsidiary legislation.

15. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 2 May 2001, or 9 May 2001 if extended by resolution.

**(c) Legal Service Division's report on subsidiary legislation to be tabled in Council on 25 April 2001 (gazetted on 6 April 2001)**  
*(LC Paper No. LS 85/00-01)*

16. The Legal Adviser said that the three items of subsidiary legislation gazetted on 6 April 2001 included one set of regulation and one commencement notice made under the Chiropractors Registration Ordinance. He explained that the Chiropractors Registration (Fees)

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Regulation prescribed the fees payable for applications for registration and practising certificates of chiropractors. He further explained that the Administration proposed to recover 70% of the administrative costs of the registration system initially, aiming at full-cost recovery in three years.

17. Referring to the Chiropractors Registration Ordinance (Cap.428) (Commencement) Notice 2001, the Legal Adviser informed Members that the Notice specified the commencement dates for the respective provisions of the Ordinance that were not yet in operation, except section 24(h) and (i).

18. In reply to the Chairman, the Legal Adviser said that the remaining inoperative provisions of the Chiropractors Registration Ordinance, which criminalised the illegal practice of chiropractors, would be put into effect at a later date, having regard to the progress of the registration exercise.

19. Mrs Sophie LEUNG said that the Panel on Health Services had earlier discussed the proposed fees for registration and practising certificates. The Administration had explained that the fees were set at a relatively high level because there were less than 60 chiropractors practising in Hong Kong to share out the administrative costs, such as the operation of a secretariat of the Chiropractors Council. The chiropractors had however raised no objection to the proposed fees and had requested early implementation of the registration system for chiropractors.

20. Mrs Sophie LEUNG did not consider it necessary to set up a subcommittee to study the two items of subsidiary legislation. Mr LAW Chi-kwong and Ms Cyd HO concurred with Mrs LEUNG. Mr LAW added that certain administrative costs had in fact not been included in the cost computation of the proposed fees.

21. As regards the Statutes of the University of Hong Kong (Amendment) Statutes 2001, the Legal Adviser said that the amendments were administrative in nature. Members did not raise any query on this item of subsidiary legislation.

22. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 23 May 2001, or 30 May 2001 if extended by resolution.

**(d) Legal Service Division's report on subsidiary legislation to be tabled in Council on 25 April 2001 (gazetted on 12 April 2001)**  
*(LC Paper No. LS 86/00-01)*

23. The Legal Adviser said that only one item of subsidiary legislation, the Legal Notice on Specification of Public Office, was gazetted on 12 April 2001. The purpose of the Notice was to enable the Director-General

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of Trade and Industry to delegate to other public officers certain powers and duties under the Import and Export (General) Regulations.

24. Members did not raise any query on this item of subsidiary legislation.

25. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 23 May 2001, or 30 May 2001 if extended by resolution.

**IV. Further business for the Council meeting on 25 April 2001**

**(a) Questions**

*(LC Paper No. CB(3) 594/00-01)*

26. The Chairman said that 20 questions (five oral and 15 written) had been scheduled for the Council meeting on 25 April 2001.

**(b) Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**

**Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Bill**

27. The Chairman said that at the House Committee meeting on 23 March 2001, Members did not raise objection to the resumption of the Second Reading debate on the Bill on 25 April 2001.

**(c) Government motion**

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

**(d) Members' motions**

**(i) Motion on "Expediting the establishment of a commercial credit reference agency"**

29. The Chairman said that the above motion would be moved by Mr Ambrose LAU and the wording had been issued to Members.

**(ii) Motion on "Effective protection of statutory rights and benefits of employees"**

30. The Chairman said that the above motion would be moved by Mr LEUNG Fu-wah and the wording had been issued to Members. The

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Chairman further said that Mr LEE Cheuk-yan had given notice to amend the motion. Referring to the draft wording of Mr LEE's amendment tabled at the meeting, the Chairman added that the finalised wording of Mr LEE's would be issued to Members, subject to the President's approval.

**V. Business for the Council meeting on 2 May 2001**

**(a) Questions**

*(LC Paper No. CB(3) 595/00-01)*

31. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 2 May 2001.

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

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

**(c) Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**

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**Rehabilitation Centres Bill**

33. The Chairman said that at the House Committee meeting on 30 March 2001, Members did not raise objection to the resumption of the Second Reading debate on the Bill on 2 May 2001.

**(d) Government motion**

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

**(e) Members' motions**

**(i) Motion on "Establishing the technology industries processing zone"**

35. The Chairman said that the above motion would be moved by Dr LUI Ming-wah and the wording had been issued to Members.

**(ii) Motion on "Treatment of terminal patients"**

36. The Chairman said that the above motion would be moved by Dr LO Wing-lok and the wording had been issued to Members.

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37. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the two motions was Monday, 23 April 2001.

**VI. Bills Committee and subcommittee reports**

**Position report on Bills Committees/subcommittees**

*(LC Paper No. CB(2) 1298/00-01)*

38. The Chairman said that there were 13 Bills Committees and four subcommittees in action.

**VII. Report of the Panel on Constitutional Affairs on "Negative vetting procedure" of subsidiary legislation**

*(LC Paper No. CB(2) 1291/00-01)*

39. Introducing the paper, Mr Andrew WONG, Chairman of the Panel on Constitutional Affairs, said that in scrutinising the Securities (Margin Financing) (Amendment) Bill 1999, members of the Bills Committee had expressed concern about the little time available for scrutiny of subsidiary legislation under the "negative vetting procedure". The matter was subsequently referred to the Panel for follow up. Mr WONG explained that under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), LegCo might amend such subsidiary legislation by a resolution passed at a Council meeting held not later than 28 days after the meeting at which the subsidiary legislation was laid. The section also provided that LegCo might by resolution extend the amendment period to the next Council meeting.

40. Mr Andrew WONG further said that in considering the matter, the Panel had taken into account the changes made to section 34 of Cap. 1 over the years. The Panel was of the view that there should be a mechanism to allow Members more time for the scrutiny of subsidiary legislation which was complicated or had significant impact on the parties concerned. The Panel had considered in detail the three options in paragraph 14 of the paper which were put forward by the Administration and the Legal Adviser to LegCo.

41. Mr Andrew WONG informed Members that the Panel was in support of "Option C" which proposed to modify the "extension period" from the existing "one LegCo meeting" to 21 days and, if there was no meeting on the 21<sup>st</sup> day, the vetting period was deemed to be extended to the meeting next following the 21-day period. Mr WONG said that the option would ensure that the "extension period" would not be "eroded" by holiday breaks coming in towards the end of the 21-day period.

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42. Mr WONG added that although the Administration had accepted the Panel's recommendation and agreed to make arrangements to amend the relevant provisions of section 34 of Cap. 1, the Administration wished also to ascertain the views of the House Committee.

43. Dr YEUNG Sum said that Members belonging to the Democratic Party were in support of "Option C", as recommended by the Panel.

44. The Chairman proposed and Members endorsed the Panel's recommendation of adopting "Option C".

**VIII. Report of the Panel on Commerce and Industry regarding the draft Copyright (Suspension of Amendments) Bill 2001**

45. Mr Kenneth TING, Chairman of the Panel on Commerce and Industry, said that the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 (Amendment Ordinance), which came into effect on 1 April 2001, had given rise to much public concern. In this connection, the Panel discussed with the Administration the measures it had taken to enforce the Amendment Ordinance at the Panel's regular meeting on 9 April 2001. The Panel also held a special meeting on 12 April 2001 to meet with representatives from the trades, copyright industries, media bodies and other deputations.

46. Mr Kenneth TING further said that the main concerns raised by the deputations and Panel members included -

- (a) the criminalisation of making copies of articles in newspapers affected the free-flowing of information and normal educational activities;
- (b) there was no collective licensing mechanism on a trade/industry basis for issuing/obtaining copyright licences; and
- (c) the meaning of "to a reasonable extent" in section 45(1) of the Copyright Ordinance was unclear.

47. Mr Kenneth TING informed Members that to address the worries and inconvenience caused by the Amendment Ordinance, the Administration had proposed to introduce legislative amendments to suspend the operation of the Amendment Ordinance concerning the criminal provisions in relation to -

- (a) copyright works in the printed media including newspapers, magazines, periodicals and books;

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(b) works in sound or television broadcast, or a cable programme of a subscription television network that was licensed under the Telecommunications Ordinance; and

(c) downloading of copyright works from the Internet.

48. Mr Kenneth TING added that the Administration had also made it clear that the suspension would not apply to computer programs, sound recordings and films.

49. Mr Kenneth TING further said that at the request of the Administration, the Panel on Commerce and Industry held an urgent meeting on 19 April 2001 to discuss the draft Copyright (Suspension of Amendments) Bill 2001. The Administration hoped to seek the consent of LegCo for the Bill to go through three Readings in one Council meeting in April 2001. It was the Administration's intention that the proposed suspension would remain in force until a long term solution could be worked out with copyright owners and parties concerned. The Administration would then make further amendments to the law.

50. Mr Kenneth TING said that the Panel supported the early introduction of the Bill but objected to the Administration's proposal for the Bill to go through three Readings in one Council meeting. The Panel considered that the provisions in the draft Bill would require careful and detailed scrutiny. Some Panel members were also of the view that the Administration should set a time limit on the proposed suspension and also provide a timetable on consultation and introduction of further legislative amendments. The Panel wished to make the following recommendations for the House Committee's consideration -

(a) A subcommittee should be set up under the House Committee to scrutinise the draft Bill immediately, to allow more time for Members to examine the proposed suspension arrangements; and

(b) The Copyright (Suspension of Amendments) Bill 2001 should be introduced into LegCo on 25 April 2001. The Second Reading debate on the Bill would be resumed after the subcommittee had completed its deliberation of the Bill and reported to the House Committee.

51. Mr Kenneth TING further said that the Administration had agreed to the Panel's recommendations. The Administration had also appealed to Members to expedite the scrutiny of the Bill, so that resumption of Second Reading debate on the Bill could take place on 2 May 2001.

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52. Miss Emily LAU asked whether the Panel had agreed to the Administration's proposal to resume the Second Reading debate on the Bill on 2 May 2001. Mr Kenneth TING responded that the Panel on Commerce and Industry had not made any commitment in this regard as the date of the resumption of the Second Reading debate on the Bill would depend on the progress of work of the subcommittee/Bills Committee to be formed to study the Bill.

53. Miss Margaret NG considered that it was not necessary for Members to wait for the final version of the draft Bill before commencing scrutiny, because amendments could be proposed to the Bill in the course of deliberation. The Legal Adviser advised that the Administration had indicated at the Panel meeting on 19 April 2001 that the draft Bill might be amended in the light of Members' views expressed at that meeting.

54. The Chairman proposed that a subcommittee should be set up under the House Committee to enable Members to immediately commence scrutiny of the draft Bill. She further proposed that upon the formal introduction of the Bill into LegCo, a Bills Committee should be formed to take over the work of the subcommittee. Members agreed. The following Members agreed to join the subcommittee : Mrs Selina CHOW, Mr Kenneth TING, Ms Cyd HO, Prof. NG Ching-fai, Miss Margaret NG, Mr HUI Cheung-ching, Mr CHAN Kam-lam, Mr SIN Chung-kai and Mr LAW Chi-kwong.

**IX. Any other business**

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

Legislative Council Secretariat  
25 April 2001