

立法會
Legislative Council

LC Paper No. CB(2) 1941/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 33rd meeting
held in the Legislative Council Chamber
at 5:03 pm on Friday, 22 June 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 Cyd HO Sau-lan
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
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 CHAN Kwok-keung
Hon CHAN Yuen-han
Hon CHAN Kam-lam
Hon SIN Chung-kai
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Dr Hon YEUNG Sum
Hon LAU Wong-fat, GBS, 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 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 James TIEN Pei-chun, JP
Hon David CHU Yu-lin
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon HUI Cheung-ching
Hon Bernard CHAN
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP
Dr Hon Philip WONG Yu-hong
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung
Hon LAU Chin-shek, JP
Hon LAU Kong-wah
Hon Mrs Miriam LAU Kin-yee, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Henry WU King-cheong, BBS
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
Miss Connie FUNG	Assistant Legal Adviser 3
Mr Arthur CHEUNG	Assistant Legal Adviser 5
Miss Kathleen LAU	Chief Public Information Officer
Mr Andy LAU	Chief Assistant Secretary (1)2
Mrs Florence LAM	Chief Assistant Secretary (1)4
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 32rd meeting held on 15 June 2001
(LC Paper No. CB(2) 1873/00-01)**

The minutes were confirmed.

II. Matters arising

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

Bank of China (Hong Kong) Limited (Merger) Bill and The East Asia,
Limited Bill

2. The Chairman said that she had informed CS that Members had agreed to defer a decision on the two Bills pending the special meeting of the Panel on Financial Affairs (FA Panel) for Members to be briefed on the two Bills. The Chairman further said that she had pointed out to CS that although Members understood that it would be desirable to deal with the Bills quickly, they had to be satisfied that points of concern had been addressed. The Chairman added that CS had emphasized that early passage of the Bills would be beneficial to Hong Kong.

Debate on Policy Address

3. The Chairman said that she had briefed CS on the House Committee's recommendations concerning the new mode of debating the Policy Address. CS had enquired what specific areas would be covered on the fourth day of the debate, whether all the Government officials would have to be present, and how duplication with issues already dealt with on the first three days could be avoided. The Chairman further said that CS's queries had been referred to Mr TSANG Yok-sing, Chairman of the Committee on Rules of Procedure (CRoP).

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4. Mr TSANG Yok-sing said that CRoP held a meeting on 21 June 2001 to discuss the questions raised by CS and a written response had been provided to the Administration. Mr TSANG further said that the main points made in the response included -

- (a) Members could speak on any general government policies or policy areas or programmes which straddled the portfolios of different Bureau Secretaries;
- (b) Members should refrain from speaking on a specific policy area unless they had not had the chance to speak in the session concerned. Members should also refrain from speaking in relation to the responses made by Bureau Secretaries at the end of the previous sessions; and
- (c) It would be for individual Bureau Secretaries to decide whether they should attend the last day of the debate.

5. The Chairman said that the Administration would provide a response to the proposed new arrangements for debating the Policy Address at the meeting with CS on 26 June 2001. She would brief Members on the Administration's views at the next House Committee meeting on 29 June 2001.

6. Mr Martin LEE said that the "general debate" proposed for the fourth day should perhaps precede the individual sessions so that Members could speak on the broad issues first before they debated the specific policy areas. He apologized for not raising the suggestion earlier. The Chairman said that as the arrangements for the new mode of debating the Policy Address had yet to be finalized, Members were welcomed to forward further views and suggestions to CRoP.

Implementation of measures to improve the working mechanism of Panels and Bills Committees for the scrutiny of legislative and financial proposals

7. Regarding the provision of discussion papers for committee meetings, the Chairman informed Members that the Director of Administration (D of Adm) had undertaken to remind the Policy Bureaux to observe the six working days requirement as far as possible. The Chairman added that D of Adm would also consult the Policy Bureaux as to whether the requirement was realistic, and if not, whether they wished to propose an alternative deadline.

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Application of certain provisions of the Prevention of Bribery Ordinance to the Chief Executive

8. The Chairman said that she had relayed to CS the request of the Panel on Constitutional Affairs (CA Panel) that action to introduce a legislative proposal to apply certain provisions of the Prevention of Bribery Ordinance to the Chief Executive (CE) should be expedited. According to CS, the Department of Justice had advised that there were a number of constitutional issues involved which had to be considered carefully. The Administration would try to expedite as far as possible, but there could be no commitment that legislation would be in place before the CE election in March next year.

9. Ms Emily LAU said that the matter had been dragged on for a long time and little progress had been made. She further said that CS should indicate when the legislative proposal would be introduced and provide detailed explanation on what the constitutional issues involved were. She requested the Chairman to raise the matter with CS again.

10. Miss Margaret NG pointed out that CS's response was the same as what the Administration had previously told the CA Panel. She agreed with Ms LAU that CS should explain what the constitutional issues were.

11. The Chairman said that she had conveyed to CS that Members were unhappy with the progress of work and urged the Administration to expedite. As regards what the constitutional issues involved were, it would be more appropriate for the CA Panel, and not the House Committee, to further discuss with the Administration. She further said that she would ask CS to provide a written response to explain why the Administration was taking such a long time to introduce the legislative proposal and what exactly the constitutional issues involved were. Members agreed.

(b) Members' Bills

(i) Bank of China (Hong Kong) Limited (Merger) Bill

(ii) The Bank of East Asia, Limited Bill

(LC Papers No. LS 122 and 114/00-01 issued vide LC Papers No. CB(2) 1840 and 1843/00-01 dated 14 June 2001)

(LC Paper No. CB(1) 1598/00-01)

12. The Chairman said that Members agreed at the last meeting that a decision on the two Bills be deferred, pending the special meeting of the

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FA Panel for Members to be briefed on the two Bills. The Chairman said that the special meeting was held on 19 June 2001 and that the Panel had prepared a report detailing the Panel's deliberations for Members' information.

13. Mr Ambrose LAU, Chairman of the FA Panel, said that the representatives of the Hong Kong Monetary Authority (HKMA) had explained to Members that subject to the approval of CE in Council, the Financial Secretary would exercise his powers under the Legal Tender Notes Issue Ordinance to appoint Bank of China (Hong Kong) Limited (BOC(HK)) as a note-issuing bank in place of the Bank of China (BOC). All BOC bank notes already issued would continue to be legal tender notes, and that BOC(HK), from the appointed time, would have power to produce, store, distribute and issue bank notes in the name of BOC bank notes using the same designs and in the same denominations as BOC was authorised.

14. Mr LAU further said that Members had expressed concern whether clause 10 of the BOC(HK) Bill was consistent with existing policy. Mr LAU explained that clause 10 enabled BOC(HK) to be qualified under the Inland Revenue Ordinance to claim set-off of loss which might have incurred by the merging banks against the profits of BOC(HK), and that there was a provision in The Bank of East Asia, Limited (BEA) Bill to the same effect. Mr LAU informed Members that the Administration had confirmed that the Government policy had been consistently applied and would reiterate this policy on taxation arrangements during the resumption of the Second Reading debate on the Bills.

15. Mr LAU said that the Personal Data (Privacy) Ordinance was another area of concern raised. He pointed out that clause 8(1) of the BOC(HK) Bill provided that any transfer to or vesting in BOC(HK) of the branches of the merging banks and any disclosure to BOC(HK) of any information of these branches would not amount to a breach of the common law duty of confidentiality between a banker and its customers, or a breach of the Ordinance or the data protection principles. Mr LAU further said that the Administration had confirmed that the Privacy Commissioner for Personal Data had been consulted on the relevant provisions of the Bill, and that the Administration had no objection to clause 8(1). Mr LAU added that upon the Panel's request, BOC had provided a copy of its "General Terms and Conditions for Banking Services" to Members for reference.

16. Mr LAU said that the Panel noted that the Human Rights Unit of the Department of Justice had advised that the two Members' Bills were in order. In response to the Panel's request, the Financial Services Bureau

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had confirmed in writing the Department's advice that the two Bills were consistent with human rights provisions of the Basic Law.

17. Mr LAU further said that the Panel was also concerned whether after the merger, a mortgagor of an "all-monies mortgage" granted by a merging bank might be liable for repayment of loans extended by all merging entities. Representatives of the two banks had assured the Panel that the liability of the mortgagor under the security for the repayment of loans would not be increased by virtue of the merger. Mr LAU added that Committee Stage amendments (CSA) would be proposed to both the BOC(HK) Bill and the BEA Bill to clarify the intent.

18. Mr Albert HO said that as the CSAs were still being drafted, if Members had any views on the proposed CSAs, they should let the two Members-in-charge know. The Legal Adviser advised that the solicitors of the two Banks had undertaken to provide an explanatory memorandum on the CSAs to Members in the following week.

19. Mr Ambrose LAU informed Members that the Panel generally found the briefing useful in clarifying the issues raised in the two Bills. The Panel also noted the position of the Administration that the proposed mergers would help promote cost-effectiveness and enhance internal control of the banks concerned and that the merged entities would be more effectively supervised by HKMA after the mergers.

20. Ms Cyd HO said that the Privacy Commissioner for Personal Data had expressed agreement that the Administration should carry out further study on whether it might be necessary or desirable to introduce exemptions in the Personal Data (Privacy) Ordinance regarding the use of personal data in acquisition/merger activities under different situations. Ms HO further said that she had written to the Home Affairs Bureau urging the Administration to conduct the study expeditiously. She added that instead of relying on exemption provisions, the Administration should work out a set of reasonable and practical procedures on how the consent of customers regarding the use of their personal data should be obtained in acquisition /merger activities.

21. Miss Margaret NG said that although she did not attend the FA Panel meeting as she was not in Hong Kong, she was aware of what was discussed and did not consider a Bills Committee on the two Bills necessary. She further said that the way the two Bills were handled was not satisfactory as she understood that the Members-in-charge had spent a lot of time discussing the two Bills with the Administration. She said that the Policy Bureau concerned should give an explanation to Members as to why it had taken such a long time to deal with the two Bills. The Chairman said that the matter should be followed up by the relevant Panel.

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22. The Chairman said that the Member-in-charge of a bill should, as far as practicable, arrange to brief the relevant Panel before the introduction of the bill into the Legislative Council (LegCo), particularly if the legislative proposals involved were not simple and straight-forward. Ms Emily LAU suggested that similar to government bills, the Member-in-charge should provide a LegCo Brief on the bill, in addition to briefing the relevant Panel.

23. Members did not consider it necessary to form a Bills Committee to study the two Bills. Members had also not raised objection to the resumption of the Second Reading debate on the two Bills on 11 July 2001. The Chairman informed Members that the respective deadlines for giving notice to resume the Second Reading debate on, and moving CSAs to, the two Bills at the Council meeting on 11 July 2001 were 23 June and 30 June 2001.

(c) Medical and Health Care (Miscellaneous Amendments) Bill 2001

24. The Chairman said that at the suggestion of Dr LO Wing-lok, Members agreed at the last meeting that a decision on the Bill be deferred to enable the relevant regulatory bodies and the public to give views, if they so wished.

25. Dr LO Wing-lok said that the Hong Kong Dentist Association would hold a meeting on 28 June 2001 to discuss the Bill. He would let Members know the outcome at the next meeting of the House Committee.

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) Road Traffic Legislation (Amendment) Bill 2001
(LC Paper No. LS 109/00-01)

26. The Legal Adviser explained that the Bill sought to introduce a driving improvement scheme and to provide for the deduction of 3 driving offence points on a person's satisfactory completion of a driving improvement course. The Legal Adviser further explained that the Bill also sought to adapt the Road Traffic Ordinance and its subsidiary legislation and the Road Traffic (Driving-offence Points) Ordinance to bring them into conformity with the Basic Law and with Hong Kong's

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status as a Special Administrative Region of the People's Republic of China.

27. The Legal Adviser informed Members that the Road Traffic Ordinance and the Road Traffic (Driving-offence Points) Ordinance were among the 14 Ordinances proposed to be adapted in the Adaptation of Laws (No. 9) Bill 1999 (1999 Bill) which was introduced into the Council in March 1999. The Administration had decided not to resume the Second Reading debate on the Bill as it could not reach consensus with the Bills Committee formed to study the 1999 Bill over the reference to "Crown" and "State" in the provision in the Motor Vehicles Insurance (Third Party Risks) Ordinance.

28. The Legal Adviser pointed out that the Bills Committee on the 1999 Bill had not raised objection to the adaptation amendments proposed to the Road Traffic Ordinance and the Road Traffic (Driving-offence Points) Ordinance, and that the adaptation amendments proposed in the Road Safety Legislation (Amendment) Bill 2001 were identical to those in the 1999 Bill.

29. The Legal Adviser further said that the Administration briefed the Panel on Transport on the proposal to introduce a driving improvement scheme at its meeting in February 2001. While Panel members generally supported the proposal, they had raised various questions relating to the operation of the scheme.

30. The Legal Adviser added that there were some technical issues which the Legal Service Division would raise with the Administration and Members might wish to consider setting up a Bills Committee to study the Bill.

31. Mr Andrew CHENG said that as Members had different views on the proposed driving improvement scheme, a Bills Committee should be set up to study the Bill.

32. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Ms Cyd HO, Mrs Miriam LAU (as advised by Mrs Selina CHOW), Mr Andrew CHENG and Mr Tommy CHEUNG.

(ii) Landlord and Tenant (Consolidation) (Amendment) Bill 2001
(*LC Paper No. LS 108/00-01*)

33. Presenting the report, the Legal Adviser said that the Bill was a follow-up to a review of the Ordinance by the Administration and was

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originally introduced into the Council as the Landlord and Tenant (Consolidation) (Amendment) Bill 1999. As the Council did not have time to scrutinise the Bill before the 1999/2000 session ended, it was allowed to lapse. The proposals which were re-introduced were mainly related to tenancy renewal procedures; compensation for tenant and sub-tenant upon redevelopment; compliance with human rights provisions; and penalties for harassment and unlawful eviction.

34. The Legal Adviser said that Members might wish to consider forming a Bills Committee to study the Bill in view of the substantial amendments proposed.

35. Mr CHAN Kam-lam proposed that a Bills Committee should be set up to study the Bill as complex issues were involved. Members agreed. The following Members agreed to join : Mr James TIEN (as advised by Mr Tommy CHEUNG), Mr James TO, Mr CHAN Kam-lam, Mr Albert CHAN and Ms Audrey EU.

(iii) Supplementary Appropriation (2000-2001) Bill 2001
(LC Paper No. LS 118/00-01)

36. The Legal Adviser said that the Bill sought the approval of the Council to make supplementary provisions for the specified heads of expenditure in the financial year which ended on 31 March 2001. The excess expenditure in each head, was specified in the Schedule to the Bill, reflecting the supplementary provision approved by the Finance Committee or under powers delegated by it. The Legal Adviser added that the drafting of the Bill was legally in order.

37. Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(iv) Human Organ Transplant (Amendment) Bill 2001
(LC Paper No. LS 126/00-01)

38. The Legal Adviser explained that the Bill was the result of a comprehensive review of the Human Organ Transplant Ordinance. The amendments proposed in this Bill mainly concerned the operational aspects of the Human Organ Transplant Board, the administrative procedures to be followed for transplants, and the control of imported organs for the purpose of transplant.

39. The Legal Adviser informed Members that the contents of the Bill were discussed at the meeting of the Panel on Health Services on 9 April 2001. The Legal Adviser recommended that a Bills Committee should be set up to consider the Bill in detail, as the appropriate procedure for the

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approval of organ transplants and the appropriate level of control of such transplants were matters of public concern.

40. The Chairman proposed that a Bill Committee be set up to study the Bill. Members agreed. The following Members agreed to join : Ms Cyd HO, Miss CHAN Yuen-han (as advised by Mr IP Kwok-him), Mrs Sophie LEUNG (as advised by Mrs Selina CHOW), Mr LAW Chi-kwong, Mr Michael MAK and Ms Audrey EU.

(b) Legal Service Division's report on subsidiary legislation tabled in Council on 20 June 2001 (gazetted on 15 June 2001)
(LC Paper No. LS 125/00-01)

41. The Legal Adviser said that the report covered three items of subsidiary legislation which were made under the Public Health and Municipal Services Ordinance. The Legal Adviser further said that the drafting and legal aspects of these items of subsidiary legislation were in order.

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

43. The Chairman reminded Members that the deadline for amendment to these items of subsidiary legislation was the second Council meeting in the next session, or the third Council meeting in the next session, if extended by resolution.

IV. Further reports by the Legal Service Division on outstanding bills/subsidiary legislation

(a) Boilers and Pressure Vessels (Amendment) Bill 2001
(LC Paper No. LS 127/00-01)

44. The Legal Adviser said that at the House Committee meeting on 11 May 2001, Members agreed to defer a decision on the Bill pending clarification from the Administration on why the rules to be made by the Commissioner for Labour (C for L) in relation to examinations conducted for the issue or endorsement of certificates of competency would not be subsidiary legislation.

45. Referring to the report, the Legal Adviser advised that according to the Administration, the rules concerned would be general administrative rules and the rules would be included in a "Guide and Syllabus" to be published by the Labour Department. An announcement would be published in a Government notice in the Gazette whenever the "Guide and

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Syllabus” was revised. The Administration had also pointed out that section 16 of the Merchant Shipping (Local Vessels) Ordinance also provided for the power to make rules, which were not subsidiary legislation, to govern the conduct of examinations for the purpose of issue of certificates of a similar nature.

46. The Legal Adviser said that Members might wish to consider whether the scope of the rules to be made would be likely or unlikely to contain provisions that would stray beyond what was intended into matters with a legislative effect, i.e. into the realm of subsidiary legislation. Since the declaration of the rules as non-subsidary legislation in the proposed section 6(8) was merely for the avoidance of doubt, any rules made that clearly had legislative effect would exceed the rule-making power.

47. Miss Margaret NG sought clarification on the wording of section 16 of the Merchant Shipping (Local Vessels) Ordinance. The Legal Adviser said that the wording of section 16(8) of the Merchant Shipping (Local Vessels) Ordinance and the proposed section 6(8) of the Bill were substantially the same, i.e. the declaration of the rules as non-subsidary legislation was for the avoidance of doubt.

48. The Chairman said that whether certain rules or regulations made under an ordinance should or should not be subsidiary legislation was an important point of principle. Miss Margaret NG concurred with the Chairman.

49. The Chairman further pointed out that the rules in relation to examinations conducted for the issue or endorsement of certificates of competency would affect a considerable number of workers, including the operators of boilers and pressure vessels in work places such as hospitals and laundries. The Chairman proposed that a Bills Committee be formed to study the Bill. Members agreed. The following Members agreed to join : Ms Cyd HO, Miss Margaret NG, Mr TSANG Yok-sing, LI Fung-ying and Ms Audrey EU.

(b) Chiropractors (Registration and Disciplinary Procedures) Rules

(LC Paper No. LS 130/00-01)

50. Presenting the paper, the Legal Adviser said that the Administration had clarified the points raised by the Legal Service Division. The Administration agreed that it was more appropriate to use the term “dentist” rather than “dental practitioner” in line with the term used in the Dentist Registration Ordinance. The Administration had also

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confirmed that it was not intended that rules of evidence would apply to proceedings of the Inquiry Committee.

51. The Legal Adviser informed Members that the Administration had referred the points raised by the Legal Service Division to the Chiropractors Council and recommended that the technical and drafting refinement be taken up by the Chiropractors Council on a suitable occasion in future.

52. Members did not raise any query on the subsidiary legislation.

53. The Chairman reminded Members that the deadline for amendment was 11 July 2001, or the first Council meeting in the next session if extended by resolution.

V. Further business for the Council meeting on 27 June 2001

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

Immigration (Amendment) Bill 2000

54. The Chairman said that at the House Committee meeting on 15 June 2001, Members raised no objection to the resumption of the Second Reading debate on the Bill.

VI. Business for the Council meeting on 4 July 2001

(a) Questions
(LC Paper No. CB(3) 797/00-01)

55. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 4 July 2001.

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

(i) Statute Law (Miscellaneous Provisions) Bill 2001

(ii) Fire Services (Amendment) Bill 2001

56. The Chairman said that the above Bills would be introduced into the Council on 4 July 2001 and considered by the House Committee on 6 July 2001.

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(c) **Government motion**

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

(d) **Members' motions**

(i) **Proposed resolution under Article 159 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China - to be moved by Hon LEUNG Yiu-chung**

(Wording of the motion issued vide LC Paper No. CB(3) 795/00-01 dated 18 June 2001.)

58. The Chairman said that Mr LEUNG Yiu-chung would move the above motion on 4 July 2001. She reminded Members that the speaking time limit was not more than 15 minutes for each Member.

(ii) **Motion on "Reviewing the compensation policy on land resumption"**

59. The Chairman said that the above motion would be moved by Mr Albert CHAN Wai-yip and the wording had been issued to Members.

(iii) **Motion on "Expediently improving flood prevention and relief work"**

60. The Chairman said that the above motion would be moved by Mr TANG Siu-tong and the wording had been issued to Members.

61. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the two motions was Tuesday, 26 June 2001.

VII. Advance information on business for the Council meeting on 11 July 2001

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

Travel Agents (Amendment) Bill 2001

62. The Chairman said that the above Bill would be introduced into the Council on 11 July 2001.

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(b) **Government motion**

Proposed resolution under section 29 of the Pharmacy and Poison Ordinance (Cap. 138) - to be moved by the Secretary for Health and Welfare

63. The Chairman said that the Legal Service Division would provide a report at the next House Committee meeting on 29 June 2001.

VIII. Bills Committee and subcommittee reports

(a) **Position report on Bills Committees/subcommittees**
(LC Paper No. CB(2) 1888/00-01)

64. The Chairman said that there were 13 Bills Committees and three subcommittees in action as well as four Bills Committees on the waiting list. The Chairman further said that the two vacant slots would be taken up by the Bills Committee on the Massage Establishments (Amendment) Bill 2001 and the Bills Committee on the Mandatory Provident Fund Schemes (Amendment) Bill 2001 on the waiting list.

(b) **Report of the Bills Committee on Fixed Penalty (Public Cleanliness Offences) Bill**
(LC Paper No. CB(2) 1877/00-01)

65. Introducing the report, Mr Fred LI, Chairman of the Bills Committee, said that the Administration had accepted most of the Bills Committee's suggestions and would move Committee Stage amendments (CSAs) accordingly. He further said that the Administration had agreed to include "dog fouling" in the proposed fixed penalty system. The Police had also agreed to be empowered, in addition to six other enforcement departments, to issue fixed penalty notices for the scheduled minor public cleanliness offences. Furthermore, the Administration had accepted members' suggestion that if a person failed to pay the fixed penalty and did not indicate his wish to dispute liability within the specified period, he should be required to pay the cost for the issue of a court order, in addition to the double penalty.

66. Mr Fred LI added that the Bills Committee had discussed in detail the enforcement of the proposed fixed penalty system. The Administration had agreed to incorporate members' suggestions in the enforcement guidelines.

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67. Mr Fred LI said that the Bills Committee supported resumption of the Second Reading debate on the Bill on 11 July 2001. The deadline for notice of CSAs was 30 June 2001.

(c) Report of the Bills Committee on Attachment of Income Orders (Amendment) Bill 2001

(LC Paper No. CB(2) 1872/00-01)

68. Mr Albert HO, Chairman of the Bills Committee, said that the Bill sought to relax the circumstances in which an Attachment of Income Order (AIO) could be made. The Bill proposed that an AIO could be made where the court was satisfied that the maintenance payer had without reasonable excuse failed to make any payment pursuant to a maintenance order, or where the court had reasonable ground to believe that the maintenance payer would not make full and punctual payment.

69. Mr Albert HO further said that members generally supported the Bill, and had proposed some minor technical amendments. Some members had made other suggestions to ensure that maintenance payees would receive maintenance payments. To address members' concerns, the Administration had proposed a new arrangement requiring a maintenance payer to apply to the court for a new AIO to be issued to the new income source if he changed employment. To implement this, the Attachment of Income Order Rules made by the Chief Justice would be amended.

70. The Chairman said that the Bills Committee supported resumption of the Second Reading debate on the Bill on 4 July 2001. She reminded members that the deadline for notice of CSAs was 22 June 2001.

(d) Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 2001

(LC Paper No. CB(1) 1582/00-01)

71. Mr Kenneth TING, Chairman of the Bills Committee, introduced the first report of the Bills Committee. He said that the purpose of the Bill was to introduce a legal framework for the use of electronic data interchange (EDI) in processing Dutiable Commodities Permit (DCP) applications via the service of Tradelink. He added that the Bills Committee recognized the need to encourage the trading community to acquire the capability to communicate electronically with trade partners, and was in support of the Bill in principle. However, members were concerned about the exclusive right granted to Tradelink to provide EDI services for official trade-related documents. Members considered that there was a need to open up the market to improve service quality, lower prices and increase efficiency for the benefit of customers. In this connection, the Bills Committee had examined various initiatives to

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facilitate entry of new electronic service providers and to enhance competition upon the expiry of Tradelink's exclusive franchise at the end of 2003.

72. Mr TING further said that the Bills Committee had examined the selection criteria and regulatory framework for new electronic service providers, and its deliberation was detailed in the report. Mr TING pointed out that there was no express provision in the law prohibiting the electronic service provider from imposing a service charge. However, under the current agreement between the Government and Tradelink, the fees charged by Tradelink for EDI services for Government-related documents had to be approved by the Government, after consultation with the relevant LegCo Panel. The Administration had advised that Tradelink had originally proposed a fee of \$60 per DCP application which was lowered to \$44 after consultation with the industry.

73. Mr TING said that the Bills Committee noted that the Administration intended to mandate the use of EDI services for processing DCP applications from a future date. The Bills Committee had reminded the Administration to alert the industry to the proposed arrangement and to ensure the consistency of the relevant legal provisions.

74. Mr TING added that the Administration had agreed to move some technical amendments and improve the English and Chinese texts of certain provisions in the Bill to make them consistent with each other. The Bills Committee had not proposed any CSAs.

75. Mr TING further said that the Administration had also requested the Bills Committee to scrutinise the draft Dutiable Commodities (Amendment) Regulation 2001 which sought to make provisions regarding the use of a particular electronic service in connection with the application for permits under the Dutiable Commodities Ordinance. Members however did not agree that the proposed Regulation should come into operation on the date of its tabling at the Council meeting on 11 July 2001, as Members would not have time to intervene before it became effective. The Administration therefore proposed to consult the Panel on Commerce and Industry on the proposed Regulation at the Panel meeting on 26 June 2001.

76. Mr TING also informed Members that it had recently come to the knowledge of the Bills Committee that the industry had different views on the proposed fees for the EDI services. As the Panel on Commerce and Industry had scheduled a meeting to be held on 26 June 2001 to listen to the views of deputations on the proposed Regulation, the Bills Committee would decide whether it should also consider the views of the deputations.

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The Bills Committee would provide a further report to the House Committee on 29 June 2001.

77. Mr TING said that the Bills Committee had no objection to the resumption of the Second Reading debate on the Bill on 4 July 2001, while the Panel would follow up certain points relating to the proposed Regulation.

78. The Chairman reminded Members that the deadline for notice of CSAs was 22 June 2001.

(e) Report of the Bills Committee on Revenue (No.3) Bill 2001

79. The Chairman said that the Bills Committee had just completed scrutiny of the Bill in the morning.

80. Miss Margaret NG, Chairman of the Bills Committee, reported that the Bills Committee had held two meetings with the Administration. She said that the Bills Committee had no objection to the proposal to reduce the stamp duty on stock transactions. As regards the levy on securities transactions, although members did not oppose the proposed removal of the levy going to the Stock Exchange of Hong Kong, they did not agree that the existing levy should be increased at the present stage to provide for a new compensation scheme which had not yet been established. The Bills Committee noted that the Securities and Futures Bill which included provisions for the establishment of the new scheme was still under examination by LegCo. Nevertheless, members were prepared to consider the proposed levy increase if the Administration could show to members that it was necessary for the operation of the existing Unified Exchange Compensation Fund (UECF).

81. Miss Margaret NG said that the Administration had agreed to provide an undertaking in writing that the Securities and Futures Commission would pay to UECF all the monies received from the proposed 0.002% increase of the levy on securities transactions. The Administration would also undertake that after the assets of the UECF had reached the level of HK\$800 million following the levy increase, a review on the funding needs of the UECF would be conducted with a view to considering whether the 0.002% increase of the levy should continue, and introducing legislative amendments where necessary.

82. Miss Margaret NG said that subject to the Administration's written undertaking, the Bills Committee had no objection to the Administration giving notice to resume the Second Reading debate on the Bill on 11 July 2001. Miss NG added that the deadline for notice of CSAs was 30 June 2001.

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- (f) **Report of the Subcommittee on Dangerous Drugs, Independent Commission Against Corruption and Police Force (Amendment) Ordinance 2000 (68 of 2000) (Commencement) Notice 2001**
(LC Paper No. CB(2) 1890/00-01)

83. The Chairman said that Mr Ambrose LAU had made a verbal report on behalf of Mr James TO, Subcommittee Chairman, at the last meeting. The Subcommittee's written report was now provided for Members' information.

- (g) **Report of the Subcommittee on Telecommunications (Method for Determining Spectrum Utilization Fees) (Third Generation Mobile Services) Regulation and Telecommunications (Designation of Frequency Bands Subject to Payment of Spectrum Utilization Fees) Order**
(LC Paper No. CB(1) 1589/00-01)

84. On behalf of Mr James TIEN, Subcommittee Chairman. Mr SIN Chung-kai, reported that the Administration had accepted the views of the Subcommittee and the industry regarding the "fourth leaver rule". The Administration had agreed to amend the Regulation to provide that the royalty percentage payable would be the lowest common royalty percentage bid which was offered by all the successful bidders and should not be lower than that offered by the fifth highest bidder. In the event that there was no fifth highest bidder, the royalty percentage would be the reserve price set by the Secretary for Information Technology and Broadcasting.

85. Mr SIN further said that the Subcommittee supported the Regulation, with amendments to be moved by the Administration, and the Order. He added that the deadline for amending these items of subsidiary legislation was 4 July 2001.

- (h) **Report of the Subcommittee on Occupational Safety and Health (Display Screen Equipment) Regulation**

86. Mr Andrew CHENG, Chairman of the Subcommittee, said that the Subcommittee had aimed to complete scrutiny of the Regulation in time for the Council to approve the Regulation at the meeting on 11 July 2001. However, as the Subcommittee had identified a number of drafting problems during detailed examination of the Regulation at a recent meeting, further meetings would have to be held with the Administration. Mr CHENG added that the Subcommittee would continue its work during the summer break so that the Regulation could be presented to the Council for approval in October 2001.

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IX. Any other business

87. There being no further business, the meeting ended at 6:25 pm.

Legislative Council Secretariat
28 June 2001