

立法會
Legislative Council

LC Paper No. CB(2) 364/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 8th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 24 November 2000**

Members present :

Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Dr Hon David LI Kwok-po, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing
Prof Hon NG Ching-fai
Hon James TO Kun-sun
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 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

Miss Connie FUNG	Assistant Legal Adviser 3
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
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 7th meeting held on 17 November 2000

(LC Paper No. CB(2) 308/00-01)

The minutes were confirmed.

II. Matters arising

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

2. Regarding Members' request that the Chief Executive (CE) should brief Members on his visits to Beijing and London, the Chairman said that the Private Secretary to CE had just provided a reply which was tabled at the meeting.

3. Dr YEUNG Sum, Mr Fred LI and Miss Emily LAU expressed disappointment at the reply. Dr YEUNG Sum said that briefing the media was no substitute for briefing Members who were elected representatives of the people of Hong Kong. Referring to the last paragraph of the reply, Mr Fred LI said that CE's Question and Answer Session was the most appropriate forum for discussing issues of public interest with CE and for Members to put questions to him on these issues.

4. Miss Emily LAU stressed that CE had the responsibility to attend meetings of the Legislative Council (LegCo) to answer Members' questions. The Chairman agreed to relay Members' views to CS.

5. The Chairman also informed Members that as requested by the House Committee, the Administration had withdrawn the notice to move the three resolutions on fee increases for court services at the Council meeting on 29 November 2000. She said that the proposed fee increases had been referred to the Panel on Administration of Justice and Legal Services for discussion. The Panel would also examine how the fees had been determined in the first place.

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(b) Scheduling of debates on Members' motions for the Council meeting on 20 December 2000

(Paragraph 3 of minutes of the 7th meeting)

6. Miss Emily LAU said that she had suggested at the last meeting that Members might wish to consider not to schedule any debate on Members' motions without legislative effect for the Council meeting on 20 December 2000, as the motion debate on the Public Order Ordinance would likely be long.

7. Dr YEUNG Sum said that as Members had the right to sponsor debates on motions without legislative effect under the Rules of Procedure, it would not be appropriate for the House Committee to reach an agreement to deprive Members of the right. Mr CHAN Kam-lam and Mr IP Kwok-him concurred with Dr YEUNG.

8. In view of Members' comments, the Chairman concluded that Miss Emily LAU's suggestion would not be pursued.

III. Business arising from previous Council meetings

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

Gambling (Amendment) Bill 2000

(LC Paper No. LS 28/00-01)

9. Introducing the paper, Acting Legal Adviser (Ag LA) said that the Bill proposed new offences for bookmaking activities and the promotion and facilitation of bookmaking activities, even though the bet was received outside Hong Kong. He said that the Hong Kong Association of Banks had made comments on the Bill and a submission had also been received from the Macau Horse Racing Company, Limited. As the Bill contained important policy and legal issues, Ag LA recommended that a Bills Committee should be formed to examine the Bill in detail.

10. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr James TO (as advised by Mr CHEUNG Man-kwong), Mr SIN Chung-kai, Mr Andrew WONG, Mr YEUNG Yiu-chung, Mr Andrew CHENG (as advised by Mr CHEUNG Man-kwong), Mr TAM Yiu-chung, Mr Abraham SHEK and Mr Tommy CHEUNG.

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- (b) **Legal Service Division's report on subsidiary legislation tabled in Council on 22 November 2000 (gazetted on 17 November 2000)**

(LC Paper No. LS 26/00-01)

11. Ag LA said that the only subsidiary legislation gazetted on 17 November 2000 was a commencement notice which appointed 17 November 2000 as the day on which certain parts of the Human Reproductive Technology Ordinance (Cap. 561) would come into operation. Ag LA added that the legal and drafting aspects of the notice were in order.

12. Members did not raise any query.

IV. Business for the Council meeting on 6 December 2000

- (a) **Questions**
(LC Paper No. CB(3) 179/00-01)

13. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the meeting.

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

14. The Chairman said that no notice had been received yet.

- (c) **Government motion**

Resolution under section 42 of the Occupational Safety and Health Ordinance (Cap. 509) - to be moved by the Secretary for Education and Manpower
(LC Paper No. LS 23/00-01)

15. Referring to the paper, Ag LA said that the Resolution sought the Council's approval for the new Occupational Safety and Health (Display Screen Equipment) Regulation. He advised that under the new Regulation, a person responsible for a workplace in which display screen equipment (DSE) users worked was required to perform risk assessment for a workstation, reduce the risks to the safety and health of DSE users at their workstations, and provide adequate safety and health training in the use of their workstations by DSE users. Ag LA added that the Regulation was controversial as non-compliance by a responsible person with the various requirements and non-conformity by a DSE user with any system of work or any practice provided for his safety and health were made offences of strict liability.

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16. In response to Mrs Miriam LAU, the Chairman said that the Panel on Manpower was consulted on the Regulation at its meeting on 25 November 1999 and Panel members had raised a number of queries.

17. Mrs Miriam LAU suggested that a subcommittee should be set up to study the Regulation in view of the strict liability provision and the fact that the Regulation would affect a lot of people.

18. The Chairman proposed that a subcommittee be formed to examine the Regulation. Members agreed. The following Members agreed to join: Mr Kenneth TING, Mr SIN Chung-kai, Mrs Miriam LAU, Mr Andrew CHENG (as advised by Mr Fred LI), Mr Henry WU, Mr Michael MAK and Mr LEUNG Fu-wah.

19. The Chairman added that the Administration would be asked to withdraw the notice of the Resolution. Members agreed.

(d) Members' motions

(i) Motion on "Smart identity card"

20. The Chairman said that the above motion would be moved by Hon LAU Wai-hing and the wording had been circulated to Members vide LC Paper No. CB(3) 186/00-01 dated 23 November 2000.

(ii) Motion on "Railway development strategy"

21. The Chairman said that the above motion would be moved by Hon LAU Chin-shek and the wording had been circulated to Members vide LC Paper No. CB(3) 187/00-01 dated 23 November 2000.

22. The Chairman reminded Members that the deadline for giving notice to amend the motions was 29 November 2000. She suggested and Members agreed that the speaking time limits stipulated in rule 17(c) of the House Rules should apply.

V. Advance information on business for the Council meeting on 13 December 2000

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

Employment (Amendment) (No. 2) Bill 2000

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(b) **Members' motion**

Motion to be moved by Hon James TO Kun-sun

23. The Chairman informed Members that other than Mr James TO Kun-sun, Mr Albert HO Chun-yan had also been allocated a debate slot.

24. The Chairman reminded Members that the respective deadlines for notice of motion and amendments, if any, were 28 November 2000 and 6 December 2000.

VI. Bills Committee and subcommittee reports

(a) **Position report on Bills Committees/subcommittees**

(LC Paper No. CB(2) 313/00-01)

25. The Chairman advised that there were eight Bills Committees and three subcommittees in action.

(b) **Report of the Subcommittee on Fixed Penalty (Criminal Proceedings) (Amendment) (No. 3) Regulation 2000 and Resolution of the Legislative Council (L.N. 206 of 2000) (Commencement) Notice 2000**

(LC Paper No. CB(2) 324/00-01)

26. Introducing the report, Mr James TIEN, the Subcommittee Chairman, explained that the subsidiary legislation sought to implement the increase in fixed penalty for smoky vehicles from \$450 to \$1,000 with effect from 1 December 2000. He added that the Subcommittee had held four meetings, including two meetings to listen to the views of the public and industry representatives.

27. Mr James TIEN further said that some concern groups which gave views to the Subcommittee were against deferring the implementation date of the increase in fixed penalty. They had also suggested that there should be heavier penalty for repeated offenders. Some industry representatives, on the other hand, had requested that the implementation date should be deferred by one year to give the industry more time to solve the vehicle emission and maintenance problems. Mr TIEN added that the Administration had informed the Subcommittee that joint efforts had been made with the vehicle maintenance trade to improve the maintenance standard, and that the vehicle maintenance mechanics had largely acquired the skills for repairing smoky vehicles.

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28. Mr James TIEN said that most members of the Subcommittee supported the subsidiary legislation. He added that Mrs Miriam LAU had given notice to move amendments to the subsidiary legislation at the Council meeting on 29 November 2000 to defer the commencement date by one year.

VII. Any other business

Adjustment of honorarium and accountable allowance of District Council members

(Hon IP Kwok-him's letter of 20 November 2000 to Chairman of the House Committee attached)

29. Referring to his letter of 20 November 2000, Mr IP Kwok-him said that the rates of the honorarium and accountable allowance for District Council (DC) members should be frozen, pending the Administration's review of how the role of DCs could be enhanced and how support for DC members could be strengthened. He hoped that Members would support his proposal as the Administration had indicated at the meeting of the Panel on Home Affairs on 14 November 2000 that it would consider the proposal if LegCo Members had a consensus.

30. Mr IP Kwok-him further said that on 2 July 1999, the Finance Committee had delegated to the Secretary for the Treasury the authority to approve annual revisions of the monthly honorarium and accountable allowance for DC members by reference to the movement of the Consumer Price Index (CPI)(C). Mr IP pointed out that the CPI(C) covered households with an average monthly expenditure of about \$30,000 to \$59,999, which was well above the \$18,000 honorarium and \$10,000 accountable allowance for a DC member.

31. Mr IP Kwok-him added that the current rate of the accountable allowance was already insufficient for a DC member to meet the monthly expenses of running his office, and any downward adjustment would render the work of a DC member even more difficult. He hoped that an independent committee would be set up to review the annual adjustment mechanism. Mr Andrew WONG concurred with Mr IP.

32. Mr Fred LI and Dr YEUNG sum expressed support for Mr IP's proposal. They said that Members generally spoke in favour of providing more resources for DC members during the motion debate on "Increasing the support to DC members" at the Council meeting on 22 November 2000. Dr YEUNG added that he also supported the proposal that an independent committee should conduct a review of the adjustment mechanism for the accountable allowance, as the current amount of

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\$10,000 was insufficient for DC members to provide service for the district.

33. Mr Fred LI and Mr Henry WU said that Members who were also DC members should not vote on Mr IP's proposal as they had direct pecuniary interest in the matter.

34. Mr James TIEN pointed out that the Finance Committee had already delegated the authority to the Secretary for the Treasury to approve annual revisions of the monthly honorarium and accountable allowance for DC members in accordance with the movement of the CPI(C). He enquired whether it was possible for LegCo to withdraw the delegated authority. He also considered that it would be more appropriate for Mr IP's proposal to be debated at a Council meeting rather than at a House Committee meeting.

35. Dr LUI Ming-wah was of the view that as some Members were also DC members, there was a conflict of interest for these Members to discuss a proposal to freeze the rates of the honorarium and accountable allowance for DC members. He added that unless the authority delegated to the Secretary for the Treasury could be withdrawn, the Finance Committee's decision of adjusting the rates according to the movement of the CPI(C) should be adhered to.

36. Mr Andrew WONG responded that it was appropriate for the House Committee to reflect the views of Members on a matter of public policy. Mr WONG explained that under the Rules of Procedure, a Member could move any motion, or speak on any matter, in which he had a pecuniary interest, provided that he disclosed the nature of that interest.

37. Mr Andrew WONG further pointed out that financial proposals for approval by the Finance Committee could only come from the Administration. He expressed doubts as to whether the Administration would be able to submit a proposal in time before the adjustment took effect on 1 January 2001.

38. Assistant Secretary General 1 said that she would discuss with the Legal Adviser whether it would be possible to withdraw a delegated authority of the Finance Committee and revert to Members.

39. Mr SZETO Wah said that when the Secretary for the Treasury was first delegated the authority back in 1992 to approve annual revisions of the honorarium for District Board members by reference to the movement in the Hang Seng Consumer Price Index, it was not anticipated that there would be downward movement of the Index. He added that DC members might have to reduce the salaries of their staff if the current rates

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of the honorarium and accountable allowance were to be adjusted downwards.

40. Mr James TIEN said that perhaps what Members should discuss was whether the honorarium and accountable allowance for DC members should be increased, and not whether the current amounts should be frozen.

41. Mr IP Kwok-him responded that the Administration's review on the role of DCs and support for DC members would take time. Pending the outcome of the review, he hoped that the rates of the honorarium and accountable allowance for DC members would not be reduced.

42. Mr LEUNG Yiu-chung enquired whether any reasons had been given for adjusting the honorarium and accountable allowance for DC members in accordance with the movement of the CPI(C).

43. The Secretary General responded that the Finance Committee paper (FCR (1999-2000)31) on the subject discussed on 2 July 1999 did not provide such information. It might be necessary to refer to previous Finance Committee papers on the subject.

44. The Chairman proposed to defer discussion of Mr IP's letter to the next meeting, pending further information to be provided by the LegCo Secretariat. She said that she would raise the matter with CS at Monday's briefing so as to obtain an initial reaction of the Administration to the suggested freeze of DC members' honorarium and accountable allowance. Appropriate follow-up action would be taken should Members reach a consensus on Mr IP's proposal at the next meeting. Members agreed.

45. There being no further business, the meeting ended at 3:45 pm.

Legislative Council Secretariat
28 November 2000