

立法會
Legislative Council

LC Paper No. CB(2) 1421/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 25th meeting
held in the Legislative Council Chamber
at 3:45 pm on Friday, 27 April 2001**

Members present :

Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Chairman)

Hon Fred LI Wah-ming, JP (Deputy Chairman)

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

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

Dr Hon Philip WONG Yu-hong

Hon WONG Yung-kan

Hon Howard YOUNG, JP

Dr Hon YEUNG Sum

Hon YEUNG Yiu-chung

Hon LAU Chin-shek, JP

Hon LAU Kong-wah

Hon LAU Wong-fat, GBS, JP

Hon Mrs Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent :

Hon Kenneth TING Woo-shou, JP
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, JP
Hon James TO Kun-sun
Hon Andrew WONG Wang-fat, JP
Hon Jasper TSANG Yok-sing, JP
Hon Emily LAU Wai-hing, JP
Hon Michael MAK Kwok-fung

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 Anita HO	Assistant Legal Adviser 2
Mr KAU Kin-wah	Assistant Legal Adviser 6
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 24th meeting held on 20 April 2001
(LC Paper No. CB(2) 1354/00-01)

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 Members had set up a subcommittee to study the draft Copyright (Suspension of Amendments) Bill 2001. The Chairman added that the Administration had given notice to introduce the Bill on 2 May 2001.

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) Revenue Bill 2001
(LC Paper No. LS 78/00-01)

(ii) Revenue (No. 2) Bill 2001
(LC Paper No. LS 79/00-01)

(iii) Revenue (No. 3) Bill 2001
(LC Paper No. LS 80/00-01)

3. Referring to the reports, the Legal Adviser said that three Revenue Bills were introduced into the Council on 25 April 2001. The Revenue

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Bill 2001 sought to give effect to the increase in tobacco duty, duty on alcoholic liquors, and vehicle licence/driving licence fees. The Bill was set out in the Schedule to the Public Revenue Protection (Revenue) Order 2001 (L.N. 61 of 2001) which had already come into force at 2:30 pm on 7 March 2001.

4. The Legal Adviser said that the Legal Service Division had sought clarification from the Administration regarding the proposal that different appropriate annual licence fees be prescribed for an unlicensed period before and after 2:30 pm on 7 March 2001. The Administration had responded that it was prepared to calculate the additional fee payable for the whole day of 7 March 2001 on the basis of the fees payable prior to amendment and would consider moving a Committee Stage amendment (CSA). The Legal Service Division would issue a further report after receiving the draft CSA if no Bills Committee was formed on this bill.

5. As regards the Revenue (No. 2) Bill 2001, the Legal Adviser explained that the Bill sought to give effect to the revenue proposals in the Budget in relation to the air passenger departure tax and on-street parking meter charges. The Bill also sought to increase the maximum amount of self-education expenses that could be deducted from the assessable income of a person.

6. The Legal Adviser further explained that the Revenue (No. 3) Bill 2001 sought to revise the rate of levy payable in respect of every securities transaction, decrease the proportion of levy which was to be retained by the Stock Exchange Company to 0%, and reduce the rate of stamp duty payable on contract notes for the sale or purchase of Hong Kong stock and on certain transfers of such stock.

7. The Legal Adviser said that it was the Administration's intention to set up a new Investor Compensation Fund, and that money from the new Fund would come from the balance of the Unified Exchange Compensation Fund (UECF) and the Commodity Exchange Compensation Fund. The Legal Adviser pointed out that the proposed revision in levy on securities transactions included the proposed 0.002% levy to be received by the Securities and Futures Commission (SFC) which would pay the monies to the UECF. The Legal Adviser added that it was the Administration's intention to start building up the balance under the UECF so that a bigger amount could be transferred to the new Fund when it was established.

8. The Legal Adviser further said that the framework for implementing new compensation schemes was provided for in the Securities and Futures Bill which was currently being studied by a Bills Committee. The SFC was now consulting the industry on the

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implementation details of the new Fund and the Administration planned to set up the new Fund after the enactment of the Securities and Futures Bill. He added that Members might wish to set up a Bills Committee to study the Bill in detail.

9. Mr HUI Cheung-ching said that the industry objected to the increase of duty rate from 30% to 40% on beer in the Revenue Bill 2001. He suggested that a Bills Committee be formed to study the Bill.

10. Mrs Miriam LAU proposed that one Bills Committee should be formed to study the three Bills as they were all related to revenue proposals. Mr James TIEN, Dr YEUNG Sum, Mr SIN Chung-kai and Mr IP Kwok-him expressed support for Mrs LAU's proposal.

11. Miss Margaret NG pointed out that the Bills would still have to be considered one by one, if Members decided to form one Bills Committee to study the three Bills, instead of setting up three separate Bills Committees.

12. The Legal Adviser said that there was some urgency in scrutinising the Revenue Bill 2001 as the Public Revenue Protection (Revenue) Order 2001 would only have legal force for a maximum period of four months from 7 March 2001 when the Revenue Protection Order was made. The temporary revenue measures would cease to have effect if the Revenue Bill 2001 was not passed by 7 July 2001. He added that the Revenue (No.3) Bill 2001 involved more complex issues and the industry's views on the new compensation scheme were not uniform.

13. Referring to the Revenue Bill 2001, Mr James TIEN, Mr LAU Chin-shek and Mr IP Kwok-him asked whether the different revenue proposals such as increase in tobacco duty and liquor duty would be put to separate votes in Council during the Committee Stage.

14. Chief Assistant Secretary (3)1 responded that it was possible to arrange separate voting on clause 2 (a) and (b) of the Revenue Bill 2001 in respect of the increase in tobacco duty and liquor duty. As regards the amendments to the Road Traffic (Driving Licences) Regulations proposed in clause 3, she said that the Secretariat would need to further study whether procedurally the individual items of increase could be put to separate votes.

15. The Chairman said that given Members' views and the Legal Adviser's advice, she proposed that one Bills Committee be formed to study the Revenue Bill 2001 and Revenue (No.2) Bill 2001, and that a separate Bills Committee be formed to study the Revenue (No.3) Bill 2001. Members agreed.

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16. The Chairman informed Members that the Bills Committee on the Revenue Bill 2001 and Revenue (No.2) Bill 2001 could commence work immediately as there was a vacant slot. The following Members agreed to join the Bills Committee: Mr HUI Cheung-ching, Mr CHAN Kam-lam (as advised by Mr IP Kwok-him), Mr SIN Chung-kai, Mrs Miriam LAU, Mr Howard YOUNG, Mr Andrew CHENG (as advised by Dr YEUNG Sum) and Mr Tommy CHEUNG.

17. The Chairman said that the Bills Committee on the Revenue (No.3) Bill 2001 would be placed on the waiting list until a vacant slot was available. The following Members agreed to join the Bills Committee: Mr James TIEN, Miss Margaret NG, Mr CHAN Kam-lam, Mr SIN Chung-kai and Mr Henry WU.

(b) Legal Service Division's report on subsidiary legislation tabled in Council on 25 April 2001 (gazetted on 20 April 2001)
(LC Paper No. LS 87/00-01)

18. The Legal Adviser said that two items of subsidiary legislation were gazetted on 20 April 2001. Both were commencement notices.

19. The Legal Adviser further said that the House Committee had considered at previous meetings the Merchant Shipping (Registration) (Amendment) Bill 2001 and the Merchant Shipping (Registration) (Fees and Charges) (Amendment) Regulation 2001. He added that Members had not raised queries on the Bill and the Regulation which sought respectively to streamline the registration process for ships in Hong Kong and to revise the percentage of amount payable for the provisional registration of a ship.

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

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

IV. Further report by the Legal Service Division on outstanding bills

Banking (Amendment) Bill 2001
(LC Paper No. LS 89/00-01)

22. The Chairman said that at the House Committee meeting on 20 April 2001, Members agreed to defer a decision on the Bill pending a

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further report on the Administration's response to queries raised by the Legal Service Division.

23. The Legal Adviser said that the report highlighted some of the more significant issues to which he would like to draw Members' attention. For instance, the new definition of "manager" as drafted would not enable one to be sure who were within the definition. This might not be much of a problem if managers were not made strictly liable for the criminal offences created under the Bill. He added that Members might wish to set up a Bills Committee to study the Bill in detail.

24. The Chairman proposed that a Bills Committee be set up to study the Bill. Members agreed. The following Members agreed to join : Mr NG Leung-sing, Miss Margaret NG, Mr Bernard CHAN and Mr Henry WU.

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

V. Business for the Council meeting on 9 May 2001

(a) Questions
(LC Paper No. CB(3) 614/00-01)

26. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 9 May 2001.

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

Boilers and Pressure Vessels (Amendment) Bill 2001

27. The Chairman said that the Bill would be introduced into the Council on 9 May 2001 and considered by the House Committee on 11 May 2001.

(c) Government motion

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

(d) Members' motions

(i) Motion on "Mechanism for handling complaints concerning medical incidents"

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29. The Chairman said that the above motion would be moved by Mr Andrew CHENG Kar-foo and the wording had been issued to Members.

(ii) Motion on "Landscaped development and greening policy"

30. The Chairman said that the above motion would be moved by Mr LAU Ping-cheung and the wording had been issued to Members.

31. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the two motions was 2 May 2001.

VI. Advance information on business for the Council meeting on 16 May 2001

Bills - First Reading and moving of Second Reading

Massage Establishments (Amendment) Bill 2001

32. The Chairman said that the Bill would be introduced into the Council on 16 May 2001 and considered by the House Committee on 18 May 2001.

VII. Bills Committee and subcommittee reports

Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 1378/00-01)

33. The Chairman said that there were 15 Bills Committees, including the Bills Committee set up to study the Revenue Bill 2001 and Revenue (No.2) Bill 2001, as well as five subcommittees in action.

VIII. Report of the Panel on Health Services on a proposal to form a subcommittee to consider improvements to the medical complaints mechanism

(LC Paper No. CB(2) 1376/00-01)

34. Mrs Sophie LEUNG, Chairman of the Panel on Health Services, said that the Panel held a special meeting on 23 April 2001 for members to be briefed on the decision of the Hong Kong Medical Council regarding a doctor of Queen Mary Hospital using a mobile telephone during an operation. At the meeting, members also discussed a proposal made by Ms Cyd HO that a subcommittee should be set up to discuss with the

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Administration and the Medical Council improvements to the medical complaints mechanism.

35. Mrs LEUNG informed Members that both she and Dr LO Wing-lok, Deputy Chairman of the Panel, considered that they should not chair the meeting as she was the Chairman of the Hospital Governing Committee of the Queen Mary Hospital while Dr LO was a member of the Medical Council. She added that the Panel elected Mr LAW Chi-kwong to chair the meeting on 23 April 2001.

36. Mr LAW Chi-kwong said that he had no strong views as to whether the subcommittee should be formed under the Panel or under the House Committee. However, as Members would have an opportunity to give their views when the Council debated Mr Andrew CHENG's motion on "Mechanism for handling complaints concerning medical incidents" on 9 May 2001, he considered that the subcommittee should be formed under the Panel.

37. Ms Cyd HO said that she had suggested that the subcommittee should be formed under the House Committee, instead of under the Panel on Health Services. Her main consideration was that non-Panel Members might wish to join the subcommittee as issues relating to professional autonomy and self-regulation would be discussed in the course of deliberating the medical complaints mechanism. She added that although non-Panel Members could attend meetings of the subcommittee, if it was to be formed under the Panel, these Members would not have any voting right in the business of the subcommittee.

38. The Chairman said that it would not be appropriate, and therefore a precedent should not be set, for the House Committee to form a subcommittee to consider a policy issue which clearly fell within the ambit of a Panel. She was of the view that the subcommittee proposed by Ms HO should be formed under the Panel on Health Services as studying the mechanism to handle medical complaints was within the Panel's terms of reference. The Chairman added that Ms HO's concern about the participation of non-Panel members should not be a problem as all Members, irrespective of whether they were members of that subcommittee, could attend the meetings of the subcommittee, and also to give their views.

39. Mr IP Kwok-him concurred with the Chairman. He added that Members belonging to the Democratic Alliance for Betterment of Hong Kong objected to forming the proposed subcommittee under the House Committee.

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40. Mr James TIEN, Mr Eric LI and Dr TANG Siu-tong said that the subcommittee should be formed under the Panel, and not under the House Committee.

41. Miss Margaret NG said that she appreciated Ms HO's concern that some non-Panel Members might be interested in the work of the proposed subcommittee because issues relating to professional autonomy and self-regulation would be discussed. Miss NG added that she would be most happy to provide information on the complaints mechanism of the legal profession to the subcommittee.

42. Dr LO Wing-lok said that he would like to thank Members' concern on the matter. He wished to state for the record that he had not given any views so as not to affect Members' decision on the matter.

43. Members agreed that the proposed subcommittee to consider improvements to the medical complaints handling mechanism should not be formed under the House Committee.

IX. Any other business

44. There being no further business, the meeting ended at 4:25 pm.