

立法會
Legislative Council

LC Paper No. CB(2) 464/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 10th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 8 December 2000**

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 James TIEN Pei-chun, JP
Hon David CHU Yu-lin
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, 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 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-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 Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP
Hon LAU Ping-cheung

Members absent :

Hon Cyd HO Sau-lan
Hon Eric LI Ka-cheung, JP
Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon Frederick FUNG Kin-kee

Clerk in attendance :

Mrs Justina LAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mr LAW Kam-sang, JP	Deputy Secretary General
Mr LEE Yu-sung	Senior Assistant Legal Adviser
Ms Pauline NG	Assistant Secretary General 1

Mr Ray CHAN	Assistant Secretary General 3
Ms Bernice WONG	Assistant Legal Adviser 1
Miss Anita HO	Assistant Legal Adviser 2
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 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 9th meeting held on 1 December 2000

(LC Paper No. CB(2) 406/00-01)

The minutes were confirmed.

II. Matters arising

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

2. Regarding the honorarium and accountable allowance of District Council members, the Chairman said that she had informed CS of the views expressed by Members and the result of the vote taken at the House Committee meeting on 1 December 2000. The Chairman further said that CS had undertaken to review the existing mechanism as quickly as possible. The Director of Administration had also indicated that the Administration recognised the urgency of the matter and hoped that the review could be completed in January 2001.

III. Legal Service Division's report on subsidiary legislation tabled in Council on 6 December 2000 (gazetted on 1 December 2000)

(LC Paper No. LS 35/00-01)

3. Referring to the report, the Legal Adviser said that four items of subsidiary legislation were gazetted on 1 December 2000, including the Money Lenders (Amendment) Regulation 2000 which proposed increase in fees payable to the licensing court under the Money Lenders Ordinance. The Legal Adviser added that the Regulation would come into operation on 12 January 2001.

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4. Regarding the Securities (Miscellaneous) (Amendment) (No. 2) Rules 2000, the Legal Adviser explained that amendments were proposed to the definition of "specific instrument" by adding reference to notes issued by the Kowloon-Canton Railway Corporation. The legal effect was that section 80(1) of the Securities Ordinance would not apply to a sale of such "specified instrument", if carried out by a market maker appointed by the Hong Kong Monetary Authority. He advised that the legal and drafting aspects of the Rules were in order.

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

6. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 20 December 2000, or 10 January 2001 if extended by resolution.

IV. Business for the Council meeting on 20 December 2000

(a) **Questions**

(LC Paper No. CB(3) 224/00-01)

7. The Chairman said that 20 questions (six oral and 14 written) had been scheduled.

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

(i) **Hong Kong Science and Technology Parks Corporation Bill**

(ii) **Intellectual Property (Miscellaneous Amendments) (No. 2) Bill 2000**

8. The Chairman said that the two Bills would be introduced into the Council on 20 December 2000 and considered by the House Committee on 5 January 2001.

(c) **Government motions**

(i) **Resolution under Article 73(7) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China - to be moved by the Chief Secretary for Administration**

(LC Paper No. LS 36/00-01)

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9. The Chairman said that the motion sought the Council's endorsement for the appointment of the Honourable Mr Justice Arthur LEONG as the Chief Judge of the High Court. She added that the Panel on Administration of Justice and Legal Services (AJLS Panel) was briefed on the appointment at its meeting on 28 November 2000.

10. Miss Margaret NG, Chairman of the AJLS Panel, said that compared to the last occasion when the Council was asked to endorse the appointment of judges to the Court of Final Appeal in June 2000, the Administration had in this case provided much more information about the appointment. She added that Panel members had no objection to CS moving the motion at the Council meeting on 20 December 2000.

(ii) Resolution under section 4(2) of the Dutiable Commodities Ordinance (Cap. 109) - to be moved by the Secretary for the Treasury
(LC Paper No. LS 37/00-01)

11. The Chairman said that the motion was to seek the Council's approval to extend the concessionary duty rate on ultra low sulphur diesel to 30 June 2001.

(iii) Resolution under section 40 of the Pneumoconiosis (Compensation) Ordinance (Cap. 360) - to be moved by the Secretary for Education and Manpower
(LC Paper No. LS 33/00-01)

12. The Chairman said that the motion was to increase the maximum amount of funeral expenses payable under the Pneumoconiosis (Compensation) Ordinance from \$16,000 to \$35,000, and that the Panel on Manpower was consulted on the proposal at its meeting on 16 October 2000. She further said that Panel members did not raise objection to the motion, although some members had commented that the maxima for funeral expenses payable under this Ordinance and the Employees' Compensation Ordinance should be set at a higher level.

(iv) Motion to be moved by the Secretary for Security
(Wording of the motion issued vide LC Paper No. CB(3) 157/00-01 dated 14 November 2000.)

13. The Chairman said that as the motion to be moved by the Secretary for Security was without legislative effect, the House Committee could recommend to the President that the speaking time limits in rule 17(c) of the House Rules should apply.

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14. Miss Margaret NG suggested that as the Public Order Ordinance was an issue of wide public concern, each Member's speech should be not longer than 15 minutes.

15. The Chairman said that if Members had no objection to Miss Margaret NG's suggestion, the House Committee would not make any recommendation to the President on the speaking time for this debate. Members did not raise objection to Miss NG's suggestion.

16. The Chairman reminded Members that if in the opinion of the President that the business on the Agenda of the Council meeting would unlikely be finished by about midnight on 20 December 2000, the President would suspend the meeting at 10:00 pm and order that the meeting resume at 9:00 am on 21 December 2000 for continuation of business.

(d) **Members' motion**

Resolution under Rule 77(1) and (2) of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region - to be moved by Hon Mrs Selina CHOW LIANG Shuk-ye

(Wording of the motion issued vide LC Paper No. CB(3) 225/00-01 dated 5 December 2000.)

17. The Chairman said that as agreed at the last House Committee meeting, she would move a motion to seek the Council's approval for a new Panel on Food Safety and Environmental Hygiene to be formed, the Panel on Trade and Industry to be renamed Panel on Commerce and Industry, and changes to be made to the terms of reference of the existing 17 Panels.

V. Bills Committee and subcommittee reports

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

(LC Paper No. CB(2) 414/00-01)

18. The Chairman said that there were eight Bills Committees and five subcommittees in action. She added that two Bills Committees had completed work and would report under agenda item V(b) and (c) below.

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(b) **Report of the Bills Committee on Adaptation of Laws Bill 2000**
(LC Paper No. CB(2) 417/00-01)

19. Miss Margaret NG, Chairman of the Bills Committee, reported that the Bills Committee had raised no objection to the amendments proposed in the Bill which were terminological changes. She further said that the Bills Committee had recommended that the Second Reading debate on the Bill be resumed on 20 December 2000. Miss NG added that she would like to thank all parties concerned including the Administration and the Legal Service Division for their cooperation and assistance which had enabled the Bills Committee to complete scrutiny of the Bill in one meeting.

20. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 20 December 2000.

(c) **Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 2000**
(LC Paper No. CB(1) 266/00-01)

21. At the Chairman's request, the Legal Adviser introduced the report on behalf of Mr James TO, Chairman of the Bills Committee, who was not present at the meeting. The Legal Adviser said that the Bills Committee agreed that the proposed presumption provision was necessary for effective enforcement against the use of illicit fuel. The Bills Committee also noted that the Administration had agreed with the trade a set of guidelines on keeping proper fuelling records at legitimate oil filling stations. To ensure that professional drivers were aware of the presumption provision and the need to keep proper fuelling records before the presumption came into operation, the Bills Committee had requested the Administration to defer the commencement date of the Bill to 1 February 2001.

22. The Legal Adviser added that subject to the Committee Stage amendment to be moved by the Administration to defer the commencement date to 1 February 2001, the Bills Committee supported the resumption of the Second Reading debate on the Bill on 20 December 2000.

23. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 20 December 2000.

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(d) **Second report of the Subcommittee on Members' Remuneration and Operating Expenses Reimbursement**
(LC Paper No. AS 123/00-01)

24. Referring to the Subcommittee's report, Mr NG Leung-sing said that at the House Committee's request, the Subcommittee held another meeting on 30 November 2000 to work out concrete proposals. Mr NG added that apart from those views expressed at the House Committee meeting on 17 November 2000, no further comments had been received from non-Subcommittee Members.

25. Mr NG Leung-sing said that subject to Members' agreement, the Subcommittee's recommendations should be conveyed to the Administration for referral to the Independent Commission on Remuneration for the Members of the Executive Council and the Legislature of the Hong Kong Special Administrative Region for consideration.

26. The Chairman invited Members to consider the Subcommittee's recommendations as set out in paragraph 17(a)-(f) of the paper.

27. Referring to paragraph 17(a) and (b) of the paper, Mr Andrew WONG sought clarification on the Subcommittee's proposal that there should be separate adjustment mechanisms for staff salaries, office rental and other expenses under the Operating Expenses Reimbursements (OER). Mr NG Leung-sing responded that as explained in paragraph 8 of the paper, the intention of adjusting Members' remuneration and the OER according to the movement of the Consumer Price Index (CPI) (C) was to ensure that Members' remuneration and the OER would not be eroded by inflation. The Subcommittee was of the view that a reduction in the level of Members' remuneration and the OER according to the downward adjustment of the CPI(C) might not be a correct interpretation of the original intention of the annual adjustment mechanism.

28. Mr NG Leung-sing further said that as staff salaries and office rental were bound by contracts or implied moral obligations, Members could not readily cut back on the salaries of their staff or office rental expenses to cope with the reduction in the OER. The Subcommittee therefore recommended that staff salaries and office rental expenses should be subject to a separate adjustment mechanism while other types of expenses under the OER could continue to follow the movement of the CPI(C).

29. Mr Andrew WONG asked whether the new adjustment mechanism proposed for staff salaries and office rental expenses would still be linked to some kind of index. Mr WONG pointed out that the same problem

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would arise if the index moved downwards, as in the case of the CPI(C). He said that the Administration and the Independent Commission should consider adopting an annual adjustment mechanism which would not lead to Members being given a reduced amount of the OER for their staff salaries and office rental expenses at times of deflation. Mr NG Leung-sing responded that it would be for the Independent Commission to determine the new adjustment mechanism. The Subcommittee did not consider it appropriate for Members to recommend a specific adjustment mechanism for staff salaries and office rental expenses.

30. The Chairman said that the points made by Mr WONG should be put forward to the Administration and the Independent Commission for consideration.

31. Mr Andrew CHENG expressed support for the recommendations in paragraph 17. Mr CHENG said that while he did not object to the reduction in Members' remuneration according to the downward movement of the CPI(C) on this occasion pending a comprehensive review on Members' remuneration package, the Administration should address the problem of the downward adjustment of the OER as a matter of urgency.

32. The Chairman said that justifications would have to be provided to the Administration and the Independent Commission on the need for a separate adjustment mechanism for staff salaries and office rental expenses under the OER. Mr NG Leung-sing said that paragraph 6 of the paper had provided some justifications such as Members' contractual and moral obligations. The Secretary General suggested that the Subcommittee's report could be provided to the Administration for referral to the Independent Commission.

33. Miss Margaret NG said that it should be pointed out to the Administration that Members should be good employers and should follow Government's example of not reducing the salaries of staff at times of economic downturn.

34. The Chairman said that she would explain clearly in her letter to CS the rationale and justifications for a separate adjustment mechanism for staff salaries and office rental expenses under the OER.

35. Regarding paragraph 17(c) of the paper, Members agreed that the present level of the OER was inadequate, and that a review should be carried out having regard to the number of offices required by Members and with reference to the 1994 manning scale of such offices.

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36. Referring Members to paragraph 17(d) of the paper, Mr NG Leung-sing said that the Subcommittee was of the unanimous view that additional funding should be provided by the Administration for long service payments for Members' staff as in the case of severance payments. Members agreed.

37. As regards paragraph 17(e) of the paper, Mr NG Leung-sing said that the Subcommittee considered it opportune for Members' remuneration package to be reviewed comprehensively, as the last review was conducted in 1994. He further said that the Subcommittee had not made any specific recommendation on the level of Members' remuneration.

38. Mr James TIEN said that the annual adjustment of Civil Service salaries was based on the findings of private sector pay trend surveys. For consistency, the adjustment of Members' remuneration should follow that of Civil Service salaries. Dr YEUNG Sum concurred. Mr Andrew WONG suggested that Members' remuneration should be pegged to a salary point on the Civil Service pay scale.

39. Mr NG Leung-sing responded that similar suggestions had been put forward by Members in 1994, as pointed out in paragraph 15 of the paper. However, the suggestions were not accepted by the then Commission on Remuneration for Members of the Legislative Council.

40. Mr Martin LEE proposed that the Subcommittee should study the issue of Members' remuneration from a longer term perspective. He elaborated that consideration should be given to the question of whether Legislative Council (LegCo) work should be regarded as a full-time commitment of Members or their main occupation. He considered that Members' remuneration should be sufficiently attractive to encourage suitable people to pursue a career as legislators and to come forward to stand for elections. Mr LEE further said that as legislators, Members worked with those in the top echelons of the Administration. Members' remuneration should therefore be comparable to that of senior Government officials.

41. Mr NG Leung-sing said that the scope of Mr Martin LEE's proposal was very wide and the Subcommittee would need to obtain a lot of information in order to conduct the study.

42. Miss Margaret NG said that it would not be appropriate for the Subcommittee to study and make recommendation on the level of Members' remuneration because of conflict of interest. She suggested that Members' remuneration should be reviewed by the Independent Commission in the light of the recent constitutional developments and

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Members could forward their views to the Independent Commission for consideration.

43. The Chairman suggested that the Administration and the Independent Commission should be asked to take into consideration the views of Mr Martin LEE, in conducting a review of Members' remuneration package, as recommended in paragraph 17(e) of the paper. Members agreed.

44. On paragraph 17(f) of the paper, Mr NG Leung-sing said that the Subcommittee recommended that the Independent Commission should conduct a review of the OER as a matter of urgency, as the downward adjustment according to the CPI(C) and the implementation of the Mandatory Provident Fund Schemes on 1 December 2000 had further aggravated the inadequacy of OER for Members. Members agreed.

45. The Chairman concluded that Members agreed to the recommendations in paragraph 17(a)-(f) of the paper. She said that she would write to CS putting forward these recommendations and the additional views expressed by Members at the meeting. Members agreed.

46. Mr Martin LEE added that the Subcommittee should also study the issue of providing a retirement benefit scheme for Members. Mr NG Leung-sing responded that the Subcommittee had already agreed to study the issue, and that the LegCo Secretariat would provide information on the retirement benefit schemes for legislators in overseas countries.

47. Mr Andrew WONG said that the issue of Members' retirement benefits had been discussed by Members some years ago. He agreed that the Subcommittee should discuss the matter and provide views to the Independent Commission for consideration.

48. Mr Andrew WONG added that Members were not regarded as employees or self-employed persons under the Mandatory Provident Fund Schemes Ordinance. He was of the view that before any pension scheme was introduced, Members should be covered by the Mandatory Provident Fund scheme.

(e) **Report of the Subcommittee on Dangerous Drugs Ordinance (Amendment of First Schedule) (No. 2) Order 2000**

49. Mr CHEUNG Man-kwong, Subcommittee Chairman, reported that the Order was to tighten control of ketamine by including it in Part I of the First Schedule of the Dangerous Drugs Ordinance. As the Order was to come into operation on 15 December 2000, the Subcommittee had urged

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the Administration to step up publicity before the commencement date on the danger of ketamine abuse and the severe penalties under the Ordinance. Mr CHEUNG added that to ensure effective control, the Subcommittee had suggested that all authorized wholesalers and retailers should be required to report their stock of ketamine as at 15 December 2000.

VI. Any other business

Precedence of Legislative Council Members on the Precedence List

(Director of Administration's letter of 6 December 2000 on Precedence Table)

50. Referring to the Administration's letter of 6 December 2000, Mr James TIEN said that he was not convinced that principal officials and Directors of Bureaux should rank ahead of LegCo Members on the Precedence Table after 1 July 1997 on the ground that their status was recognised by the Basic Law. He pointed out that the Convenor of the Executive Council (ExCo) was not specified in the Basic Law but the ranking of the ExCo Convenor was higher than that of the principal officials and Director of Bureaux on the Precedence Table. He was of the view that LegCo Members should rank immediately after the Members of the Executive Council, as in the case before 1 July 1997.

51. Miss Margaret NG concurred with Mr TIEN. She also suggested that the Panel on Constitutional Affairs should be invited to discuss the matter with the Director of Administration.

52. The Chairman proposed that the matter be referred to the Panel on Constitutional Affairs for discussion, and that non-Panel Members be invited to attend the discussion. Members agreed.

53. There being no further business, the meeting ended at 3:40 pm.

Legislative Council Secretariat
13 December 2000