

立法會
Legislative Council

LC Paper No. CB(1)2408/01-02
(These minutes have been seen
by the Administration)

Ref : CB1/BC/12/01

**Bills Committee on
Public Officers Pay Adjustment Bill**

**Minutes of fifth meeting held on
Friday, 21 June 2002 at 5:30 pm
(immediately after the House Committee meeting)
in the Chamber of the Legislative Council Building**

Members present : Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Eric LI Ka-cheung, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon Andrew WONG Wang-fat, JP
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung, BBS
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung

Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok

Member attending : Hon CHAN Yuen-han, JP

Members absent : Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong
Hon LAU Chin-shek, JP
Dr Hon LO Wing-lok

Public officers attending : Mrs Jessie TING
Deputy Secretary for the Civil Service (2)

Mr Ian WINGFIELD
Law Officer (Civil Law)
Department of Justice

Mr David MORRIS
Deputy Law Draftsman (Legislation)
Department of Justice

Mr Gilbert MO
Deputy Law Draftsman (BD & A)
Department of Justice

Ms Angelina FUNG
Principal Assistant Secretary for the Civil Service (2)

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Mr Jimmy MA
Legal Adviser

Ms Pauline NG
Assistant Secretary General 1

Miss Kitty CHENG

Assistant Legal Adviser 5

Mr Anthony WONG
Senior Assistant Secretary (1)8

I. Meeting with the Administration

- (LC Paper No. CB(1)2055/01-02 — Letter dated 18 June 2002 from the Breakfast Group to the Secretary for the Civil Service
- LC Paper No. CB(1)2056/01-02(01) — “Follow-up to the fourth meeting on 18 June 2002” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)2056/01-02(02) — C151 Labour Relations (Public Service) Convention, 1978
- LC Paper No. CB(1)2056/01-02(03) — Administration's response to members' concerns raised at the fourth meeting on 18 June 2002
- LC Paper No. CB(1)2056/01-02(04) — Committee Stage amendments proposed by the Administration
- LS 109/01-02 (Annex) — Letter dated 5 June 2002 from the Assistant Legal Adviser to the Administration
- LC Paper No. CB(1)1964/01-02(02) — The Administration's reply dated 10 June 2002 to the Assistant Legal Adviser
- LC Paper No. CB(1)2080/01-02(01) — Letter dated 20 June 2002 from the Assistant Legal Adviser to the Administration)

The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Matters arising from the fourth meeting on 18 June 2002

2. Members noted that the Administration had, in response to members' request at the fourth meeting of the Bills Committee on 18 June 2002, provided two examples of overseas jurisdictions where the pay of public sector employees was reduced by one-off legislation (LC Paper No. CB(1)2056/01-02(03)). The two examples were the Public Sector Pay Reduction (PSPR) Act (1994), Prince Edward Island, Canada, and the State Government Leaders' Salary Reduction (SGLSR) Act (2002), Illinois, USA.

3. To facilitate members to make a comparison with the Bill, Miss Margaret NG requested the Administration to provide background information about the PSPR Act

and SGLSR Act, including the civil service pay adjustment mechanism in Prince Edward Island and Illinois. The Deputy Secretary for the Civil Service (2) (DS(CS)(2)) responded that while the civil service pay adjustment mechanism in those two places might not be the same as that in Hong Kong, the two Acts aimed to reduce the pay of public sector employees on a one-off basis.

4. The Legal Adviser (LA) advised that in Prince Edward Island, the Labour Act defined the rights of employers and employees and provided for the mechanism of collective bargaining. The Act was applicable to public sector employees. Moreover, the Civil Service Act provided for the establishment of a Civil Service Commission which was empowered to deal with, amongst other things, the appointment of civil servants and issues related to collective bargaining in the civil service. The PSPR Act passed in 1994 provided for a pay reduction for one year. Negotiations took place in 1995 and agreement was subsequently reached in 1996 to recoup the rollback.

5. Miss Margaret NG considered the background information provided by LA useful, as it set out the civil service pay adjustment mechanism in Prince Edward Island, which was in fact very different from that in Hong Kong. She strongly protested that the Administration had not included such information in its written reply to the Bills Committee. Ms Audrey EU shared Miss NG's view and wished to record her regret that the Administration had omitted such important information in its written reply. Mr Andrew WONG also considered it meaningless for the Administration to provide the two examples without any background information. He further queried whether the SGLSR Act in Illinois was a relevant example, as the Act only provided for pay reduction for certain persons who were in leadership positions in the state government of Illinois.

6. The Law Officer (Civil Law), Department of Justice explained that the PSPR Act and SGLSR Act were quoted by the Administration, in response to members' request raised at the fourth meeting, as examples to illustrate that legislation which affected contractual rights had been enacted in overseas jurisdictions. They were not put forward by the Administration as the justifications for the Bill. Indeed, the Administration was unaware of the background information provided by LA.

7. At members' request, DS(CS)(2) agreed to provide the Bills Committee with the full text of the PSPR Act and SGLSR Act, and LA agreed to provide some background information on the two Acts in writing.

(Post meeting note: The information requested in paragraph 7 was forwarded to members vide LC Paper No. CB(1)2095/01-02(03) to (04) on 24 June 2002.)

Other follow-up actions to be taken by the Administration

8. At members' request, the Administration agreed to follow up on the issues listed below:

- (a) To provide samples of the Memorandum on Conditions of Service of government contract staff appointed before June 2000, including those officers on short term contracts; and
- (b) To consider amending the drafting of clause 9 to reflect the purpose of the clause, which was to modify those provisions of the contract dealing with pay in accordance with the provisions of the Bill, e.g. to replace "The contracts of employment of public officers are to be read as" by "The contracts of employment of public officers are to be varied...".

(Post-meeting note: The information requested in paragraph 8(a) was circulated to members vide LC Paper Nos. CB(1)2107/01-02(01) to (03) on 25 June 2002. The proposed amendment to clause 9 suggested in paragraph 8(b) was circulated to members vide LC Paper No. CB(1)2086/01-02(03) on 25 June 2002.)

Date of next meeting

9. Members noted that the sixth meeting of the Bills Committee would be held on Saturday, 22 June 2002 at 11:00 am.

II. Any other business

10. There being no other business, the meeting ended at 7:25 pm.

Legislative Council Secretariat
6 August 2002

**Proceedings of the fifth meeting of the
Bills Committee on Public Officers Pay Adjustment Bill
on Friday, 21 June 2002 at 5:30 pm
(immediately after the House Committee meeting)
in the Chamber of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
<i>Agenda Item I — Meeting with the Administration</i>			
000000 - 000200	Chairman	Welcoming and introductory remarks	
000200 - 000218	Miss Margaret NG	Meeting arrangements	
000218 - 000225	Mr Andrew WONG	-ditto-	
000225 - 000236	Mr James TIEN	-ditto-	
000236 - 000355	Chairman	Matters arising from the fourth meeting of the Bills Committee	
000355 - 000715	Administration	Responses to issues raised in the fourth meeting of the Bills Committee	
000715 - 001046	Miss Margaret NG	Justifications for implementing pay reduction through legislation, and the two examples of legislation reducing public officers' pay in overseas jurisdictions	
001046 - 001612	Administration	-ditto-	Admin
001612 - 001726	Legal Adviser (LA)	The two examples of legislation reducing public officers' pay in overseas jurisdictions	
001726 - 001915	Miss Margaret NG	-ditto-	
001915 - 002200	Administration	-ditto-	
002200 - 002220	Miss Margaret NG	-ditto-	
002220 - 002256	Administration	-ditto-	
002256 - 002434	Mr Andrew WONG	-ditto-	
002434 - 002509	LA	-ditto-	
002509 - 002552	Mr Andrew WONG	-ditto-	
002552 - 002604	Chairman	-ditto-	LA
002604 - 002722	Administration	-ditto-	
002722 - 002750	Chairman	-ditto-	

Time	Speaker	Subject(s)	Action required
002750 - 003027	Mr LEE Cheuk-yan	Whether the Bill would contravene Article 39 of the Basic Law and Article 8 of C 151 Labour Relations (Public Service) Convention 1978	
003027 - 003214	Administration	-ditto-	
003214 - 003306	Mr LEE Cheuk-yan	-ditto-	
003306 - 003340	Administration	-ditto-	
003340 - 003352	Mr LEE Cheuk-yan	-ditto-	
003352 - 003412	Administration	-ditto-	
003412 - 003605	Ms Audrey EU	The two examples of legislation reducing public officers' pay in overseas jurisdictions	
003605 - 003634	Administration	-ditto-	
003634 - 003915	Mr Albert HO	The variation clause in the Memorandum on Conditions of Service for staff on short-term contracts	
003915 - 003950	Chairman	-ditto-	
003950 - 004024	Mr Albert HO	-ditto-	
004024 - 004144	Administration	-ditto-	
004144 - 004248	Mr Albert HO	-ditto-	
004248 - 004405	Administration	-ditto-	
004405 - 004422	Chairman	-ditto-	
004422 - 004432	Mr Albert HO	-ditto-	Admin
004432 - 004554	Administration	-ditto-	
004554 - 004618	Chairman	-ditto-	
004618 - 004659	Administration	-ditto-	
004659 - 004812	Mr Albert HO	Justification for the implementation of pay reduction through legislation before reaching an agreement on the amount to be reduced	
004812 - 004854	Administration	-ditto-	
004854 - 005005	Mr Albert HO	-ditto-	
005005 - 005240	Chairman	-ditto-	
005240 - 005340	Mr LEE Cheuk-yan	Whether the Bill would contravene Article 8 of C 151 Labour Relations (Public Service) Convention 1978	

Time	Speaker	Subject(s)	Action required
005340 - 005425	Chairman	Whether the Bill would contravene Article 8 of C 151 Labour Relations (Public Service) Convention 1978	
005425 - 005656	Miss Margaret NG	Comments on the drafting of clause 9 of the Bill	
005656 - 005808	Administration	-ditto-	
005808 - 005912	Miss Margaret NG	-ditto-	
005912 - 005944	Administration	-ditto-	
005944 - 010101	Chairman	-ditto-	
010101 - 010131	Miss Margaret NG	-ditto-	
010131 - 010326	Assistant Legal Adviser 5	-ditto-	
010326 - 010508	LA	-ditto-	
010508 - 010656	Miss Margaret NG	-ditto-	
010656 - 010821	Administration	-ditto-	
010821 - 010835	Miss Margaret NG	-ditto-	
010835 - 010940	Administration	-ditto-	
010940 - 011237	Ms Audrey EU	-ditto-	
011237 - 011332	Administration	-ditto-	
011332 - 011400	Chairman	-ditto-	
011400 - 011542	Administration	-ditto-	
011542 - 011558	Ms Audrey EU	-ditto-	
011558 - 011638	Chairman	-ditto-	Admin
011638 - 011722	Miss CHAN Yuen-han	Legal basis for the Administration to implement pay reduction through unilateral variation of contracts	
011722 - 011807	Administration	-ditto-	
011807 - 011838	Miss CHAN Yuen-han	-ditto-	
011838 - 011900	Administration	-ditto-	
011900 - 011909	Miss CHAN Yuen-han	-ditto-	
011909 - 011924	Administration	-ditto-	
011924 - 011937	Miss CHAN Yuen-han	-ditto-	
011937 - 011958	Administration	-ditto-	
011958 - 012016	Miss CHAN Yuen-han	-ditto-	
012016 - 012109	Mr LEE Cheuk-yan	Whether the Bill would set a precedent for pay reduction in the future	
012109 - 012134	Administration	-ditto-	

Time	Speaker	Subject(s)	Action required
<i>Agenda Item II — Any other business</i>			
012134 - 012304	Chairman	Legislative timetable of the Bill and date and time of next meeting	
012304 - 012325	Miss Margaret NG	-ditto-	
012325 - 012340	Ms Emily LAU	-ditto-	
012340 - 012448	Chairman	-ditto-	
012448 - 012502	Dr Raymond HO	-ditto-	
012502 - 012516	Chairman	-ditto-	
012516 - 012532	Miss Margaret NG	-ditto-	
012532 - 012656	Ms Emily LAU	-ditto-	
012656 - 012808	Mr Howard YOUNG	-ditto-	
012808 - 012830	Chairman	-ditto-	
012830 - 012842	Miss Margaret NG	-ditto-	
012842 - 013020	Chairman	Concluding remarks	

Note: **The audio records of the above proceedings are kept at the Legislative Council Library**

Legislative Council Secretariat
6 August 2002