

立法會
Legislative Council

LC Paper No. CB(2) 207/01-02

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 2nd meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 26 October 2001**

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, GBS, JP

Hon David CHU Yu-lin, JP

Hon Cyd HO Sau-lan

Hon LEE Cheuk-yan

Hon Eric LI Ka-cheung, JP

Dr Hon David LI Kwok-po, GBS, JP

Dr Hon LUI Ming-wah, JP

Hon NG Leung-sing, JP

Hon Margaret NG

Hon James TO Kun-sun

Hon CHEUNG Man-kwong

Hon HUI Cheung-ching, JP

Hon CHAN Kwok-keung

Hon LEUNG Yiu-chung

Hon SIN Chung-kai

Hon Andrew WONG Wang-fat, JP

Hon Jasper TSANG Yok-sing, JP

Hon Howard YOUNG, JP

Dr Hon YEUNG Sum

Hon YEUNG Yiu-chung, BBS

Hon LAU Chin-shek, JP

Hon LAU Kong-wah

Hon LAU Wong-fat, GBS, JP

Hon Mrs Miriam LAU Kin-ye, JP

Hon Ambrose LAU Hon-chuen, GBS, 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 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 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
Hon MA Fung-kwok

Members absent :

Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Martin LEE Chu-ming, SC, JP
Hon CHAN Yuen-han, JP
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Abraham SHEK Lai-him, JP

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
Miss Anita HO	Assistant Legal Adviser 2
Mr Stephen LAM	Assistant Legal Adviser 4
Mr KAU Kin-wah	Assistant Legal Adviser 6
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Miss Becky YU	Chief Assistant Secretary (1)1
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Betty MA	Senior Assistant Secretary (2)1

Action

I. Confirmation of the minutes of the 1st meeting held on 12 October 2001
(LC Paper No. CB(2) 85/01-02)

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 she had informed CS that a subcommittee had been formed to study the three proposed resolutions made under the Mutual Legal Assistance Criminal Matters Ordinance. She further said that the Administration had withdrawn the notices for moving the three proposed resolutions at the Council meeting on 31 October 2001.

3. The Chairman further said that the Administration had not yet provided the Legislative Programme for the 2001-2002 session. She would request CS to provide it as early as possible. Members agreed.

III. Business arising from previous Council meetings

(a) Legal Service Division report on subsidiary legislation gazetted on 12 October 2001
(LC Paper No. LS 10/01-02)

4. The Legal Adviser said that eight items of subsidiary legislation were gazetted on 12 October 2001. Referring to the Fugitive Offenders (Sri Lanka) Order, the Legal Adviser pointed out that the Chinese version of the description of some of the offences in Article 2 of the Agreement deviated from the Chinese description of the same offences in the Schedule to the Fugitive Offenders Ordinance.

5. The Legal Adviser said that the Legal Service Division had earlier sought clarification from the Administration, and its reply had just been received. The Administration agreed that the Chinese descriptions in Article 2 of the Sri Lanka Order differed from those in the Chinese text of the Schedule. However, the Administration considered that the Chinese terms generally reflected the same meaning as the English text, and since the differences would not give rise to problems of implementation, it did not consider it necessary to make amendments at this stage. The Administration also pointed out that the Sri Lankan authorities had been consulted on the Chinese and English texts. To go back with the proposal to amend the Sri Lankan Agreement to cover primarily textual changes would put the Administration in an awkward position and there might also be problems with the Sri Lankan parliamentary procedures. Nevertheless, the Administration had undertaken that it would ensure that in future Agreements, the Chinese text of the list of offences in the Agreements would follow closely the wording in the Ordinance.

6. The Legal Adviser said that Members might wish to defer a decision on whether to set up a subcommittee to study the Order, pending a further report from the Legal Service Division on the Administration's reply.

7. Mr James TO considered that a subcommittee should be set up immediately to study the Fugitive Offenders (Sri Lanka) Order and the Fugitive Offenders (Portugal) Order in detail. Miss Margaret NG expressed support for a subcommittee to be formed as the two Orders concerned matters of an individual's rights.

8. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join : Miss Margaret NG, Mr James TO, Mr TSANG Yok-sing, Mrs Miriam LAU and Ms Emily LAU.

9. The Legal Adviser further said that the following six items of subsidiary legislation relating to the Chief Executive (CE) election were gazetted on 12 October 2001 -

- (a) Election Committee (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2001;
- (b) Legislative Council (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2001;
- (c) Distribution of Number of Members Among Designated Bodies (Election Committee) Order 2001;
- (d) Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) Regulation;

- (e) Electoral Affairs Commission (Nominations Advisory Committees (Legislative Council)) (Amendment) Regulation 2001; and
- (f) Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation.

10. The Chairman said that as agreed by Members, a subcommittee had been formed to study all items of subsidiary legislation relating to the CE election. The Chairman added that the subcommittee should also study these six items of subsidiary legislation. Members agreed.

11. The Chairman reminded Members that the deadline for amending the subsidiary legislation was the Council meeting on 14 November 2001, or 21 November 2001 if extended by resolution.

(b) Legal Service Division report on subsidiary legislation gazetted on 19 October 2001
(LC Paper No. LS 11/01-02)

12. The Legal Adviser said that three items of subsidiary legislation were gazetted on 19 October 2001. These items would be tabled in Council on 31 October 2001.

13. Referring to the Hotel and Guesthouse Accommodation (Fees) (Amendment) Regulation 2001, the Legal Adviser said that the Regulation provided for, among other things, the issue and renewal of hotel and guesthouse licences with validity periods of up to seven years. According to the Legislative Council (LegCo) Brief on the Regulation, the hotel and guesthouse industries had been consulted, and they supported the proposed fees.

14. The Chairman informed Members that when the Panel on Home Affairs discussed the Regulation at its meeting on 8 May 2001, some members had raised concern about the proposed increase in fees for the one-year licences.

15. The Legal Adviser added that the Legal Service Division was seeking clarification from the Administration on the drafting aspects of the subsidiary legislation. A further report would be provided if necessary.

16. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was the Council meeting on 28 November 2001, or 5 December 2001 if extended by resolution.

IV. Further business for the Council meeting on 31 October 2001

(a) **Questions**

(LC Paper No. CB(3) 65/01-02)

17. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 31 October 2001.

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

Inland Revenue (Amendment) Bill 2001

18. The Chairman said that the Bill would be introduced into the Council on 31 October 2001 and considered by the House Committee on 2 November 2001.

(c) **Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**

Companies (Amendment) Bill 2001

19. The Chairman said that at the House Committee meeting on 12 October 2001, Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(d) **Members' motions**

(i) **Proposed resolution under the Legislative Council (Powers and Privileges) Ordinance**

(Wording of the motion issued vide LC Paper No. CB(3) 49/01-02 dated 15 October 2001.)

20. The Chairman said that Mr IP Kwok-him would move the above motion on 31 October 2001. She reminded Members that the speaking time limit was not more than 15 minutes for each Member.

(ii) **Motion on "Report of the Working Group on District Councils Review"**

(Wording of the motion issued vide LC Paper No. CB(3) 54/01-02 dated 17 October 2001.)

21. The Chairman said that the above motion would be moved by Mr IP Kwok-him and the wording had been issued to Members. The Chairman added that Mr Andrew CHENG had given notice to amend the motion.

(iii) **Motion on "Developing nanotechnology"**

(Wording of the motion issued vide LC Paper No. CB(3) 55/01-02 dated 17 October 2001.)

22. The Chairman said that the above motion would be moved by Dr LUI Ming-wah and the wording had been issued to Members.

V. Business for the Council meeting on 7 November 2001

(a) **Questions**

(LC Paper No. CB(3) 66/01-02)

23. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 7 November 2001.

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

Chemical Weapons (Convention) Bill

24. The Chairman said that the Bill would be introduced into the Council on 7 November 2001 and considered by the House Committee on 9 November 2001.

(c) **Government motion**

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

(d) **Members' motions**

(i) **Motion on "Upholding the rule of law"**

(Wording of the motion issued vide LC Paper No. CB(3) 70/01-02 dated 24 October 2001.)

26. The Chairman said that the above motion would be moved by Ms Audrey EU and the wording had been issued to Members.

(ii) **Motion on "Reviewing the Old Age Allowance Scheme"**

(Wording of the motion issued vide LC Paper No. CB(3) 71/01-02 dated 24 October 2001.)

27. The Chairman said that the above motion would be moved by Dr YEUNG Sum and the wording had been issued to Members.

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

VI. Bills Committee and subcommittee reports

(a) **Position report on Bills Committees/subcommittees**
(LC Paper No. CB(2) 98/01-02)

29. The Chairman said that there were 15 Bills Committees and seven subcommittees (including the subcommittee formed under agenda item III(a) above) in action. The Chairman added that nine Bills Committees were on the waiting list.

(b) **Report of the Subcommittee on Public Health (Animals and Birds) (Chemical Residues) Regulation & Harmful Substances in Food (Amendment) Regulation 2001**
(LC Paper No. CB(2) 12/01-02)

30. Presenting the report, Dr LO Wing-lok, Chairman of the Subcommittee, said that the two Regulations sought to regulate the feeding of chemicals to food animals that were sold for human consumption, and also prohibit the use of seven chemicals by farmers and food animal traders to feed food animals. The Regulations also established the "Maximum Residue Limits" for 37 other agricultural and veterinary chemicals in meat, offal or milk with limits in line with international standards.

31. Dr LO Wing-lok further said that the Subcommittee had held six meetings, including one meeting to hear the views of deputations. The trade was generally in support of the introduction of tighter control over the use of chemicals in feeding food animals. They also supported the proposals as set out in the two Regulations so long as the system was fair and that clear guidelines and necessary training would be provided to the trade.

32. Referring to paragraphs 8 to 14 of the report, Dr LO Wing-lok said that the Subcommittee had deliberated in detail the strict liability provisions in the Public Health (Animals and Birds) (Chemical Residues) Regulation. Dr LO explained that section 21 of the Regulation provided that where an offence had been committed by a body corporate, any person who, at the time of commission of the offence, was a director or an officer concerned in the management of the body corporate, would also be guilty of such offences, unless he could prove that the offence was committed without his consent or connivance and he had exercised all such diligence to prevent the commission of the offence. Dr LO said that some members had expressed concern about the provision and requested that section 21 be repealed. Dr LO pointed out that without section 21, the Administration could still rely on section 101E of

the Criminal Procedure Ordinance to prosecute officers concerned in the management of a company if it was proved that the offence was committed with their consent or connivance. However, the onus of proof would rest with the prosecution.

33. Dr LO Wing-lok said that in response to members' concern, the Administration had agreed to repeal section 21 of the Public Health (Animals and Birds) (Chemical Residues) Regulation. Dr LO added that the Subcommittee supported the proposal to repeal section 21 of the Regulation and some technical amendments to be moved by the Administration.

(c) Report of the Subcommittee on Estate Agents (Licensing) (Amendment) Regulation 2001

(LC Paper No. CB(1) 113/01-02)

34. On behalf of Mr CHAN Kam-lam, Chairman of the Subcommittee, Miss CHOY So-yuk reported that the Subcommittee had made verbal reports at the House Committee meetings on 5 and 12 October 2001. The written report was now provided for Members' reference.

35. Miss CHOY So-yuk said that the Regulation sought, among other things, to reduce the present level of licence fees. The Subcommittee considered that all aspects of the Regulation had been fully deliberated, and it would be for individual Members to decide whether or not to support the Regulation.

36. The Chairman informed Members that, subject to the approval of the President, she would move a motion at the Council meeting on 31 October 2001 to further reduce the licence fees.

(d) Report of the Subcommittee on Solicitors (Professional Indemnity) (Amendment) Rules 2001

(LC Paper No. CB(2) 136/01-02)

37. Miss Margaret NG, Chairman of the Subcommittee, said that the deliberations of the Subcommittee were detailed in the report. The Subcommittee agreed to support the Amendment Rules as the Law Society of Hong Kong had undertaken to review the current insurance arrangements under the Solicitors Professional Indemnity Scheme. The Law Society would report to LegCo on the progress of the review on or before 30 September 2003.

38. Miss Margaret NG further said that the Subcommittee also recommended that the matter should be followed up by the Panel on Administration of Justice and Legal Services (AJLS Panel). When the report from the Law Society was received, the AJLS Panel would inform the House Committee which would then decide whether the Law Society's report should be referred to a Panel or subcommittee for further action. Dr YEUNG Sum

and Mrs Miriam LAU expressed support for the Subcommittee's recommendation.

39. Members endorsed the Subcommittee's recommendation.

(e) **Report of the Subcommittee on subsidiary legislation relating to Chief Executive election**

40. Mr IP Kwok-him, Chairman of the Subcommittee, said that the Subcommittee held a meeting on 12 October 2001 to examine the five items of subsidiary legislation relating to the CE election which were gazetted on 5 October 2001. As the Subcommittee had requested the Administration to make certain amendments to three of the five items of subsidiary legislation, the Subcommittee would need to hold a further meeting to discuss the Administration's proposed amendments. Mr IP added that to allow time for the Subcommittee to continue its work and then report its deliberation to the House Committee, he would move a motion at the Council meeting on 7 November 2001 to extend the scrutiny period of the five items of subsidiary legislation to the Council meeting on 14 November 2001.

(f) **Report of the Subcommittee on Rehabilitation Centres Regulation**

41. Mr James TO, Chairman of the Subcommittee, reported that the Subcommittee had so far held two meetings to discuss the Regulation. To allow time for the Subcommittee to continue its work and then report its deliberations to the House Committee, he would move a motion at the Council meeting on 7 November 2001 to extend the scrutiny period of the Regulation to the Council meeting on 14 November 2001.

VII. Election of Members of The Legislative Council Commission

(LC Paper No. AS 27/01-02)

42. The Chairman said that at the House Committee meeting on 5 October 2001, Members agreed to hold the election of members of The Legislative Council Commission at the House Committee meeting on 26 October 2001.

43. The Chairman said that 10 nominations had been received by the deadline for nomination. As the number of nominations was equal to the number of Members to be elected to the Commission, the Chairman declared that the following Members were elected members of the Commission -

Hon James TIEN
Hon NG Leung-sing
Hon Margaret NG
Hon HUI Cheung-ching

Hon Bernard CHAN
Hon YEUNG Yiu-chung
Hon Emily LAU
Hon LAW Chi-kwong
Hon Henry WU
Hon IP Kwok-him

VIII. Election of a Member to the Parliamentary Liaison Subcommittee

(LC Paper No. CB(3) 25/01-02 issued vide LC Paper No. CB(2) 22/01-02 dated 10 October 2001)

(Paragraphs 53 to 55 of the minutes of the 1st House Committee meeting held on 12 October 2001)

44. The Chairman said that Members agreed at the last House Committee meeting that a Member should be elected to fill the vacancy left by Prof NG Ching-fai.

45. The Chairman invited nominations from Members in accordance with the nomination and election procedure endorsed by the House Committee on 13 October 2000.

46. Mr IP Kwok-him nominated Mr MA Fung-kwok. Dr YEUNG Sum and Dr LUI Ming-wah seconded the nomination. Mr MA Fung-kwok accepted the nomination.

47. As there were no other nominations, the Chairman declared that Mr MA Fung-kwok was elected to the Parliamentary Liaison Subcommittee.

IX. Proposed parliamentary visit to Canada and the United States

(LC Paper No. CB(3) 40/01-02)

48. The Chairman informed Members that as requested by Dr LUI Ming-wah, Chairman of the Parliamentary Liaison Subcommittee, discussion of the item would be deferred to a future meeting.

X. Any other business

49. There being no further business, the meeting ended at 3:03 pm.