

立法會
Legislative Council

LC Paper No. CB(2) 568/01-02

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 7th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 30 November 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 Cyd HO Sau-lan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
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 Bernard CHAN
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP
Dr Hon Philip WONG Yu-hong
Hon Jasper TSANG Yok-sing, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon LAU Kong-wah
Hon LAU Wong-fat, GBS, JP
Hon Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
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 LEUNG Fu-wah, MH, JP
Hon WONG Sing-chi
Hon Audrey EU Yuet-mee, SC, JP

Members absent :

Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Hon CHAN Yuen-han, JP
Hon CHAN Kam-lam
Hon SIN Chung-kai
Hon WONG Yung-kan
Hon Howard YOUNG, JP
Hon LAU Chin-shek, JP
Hon CHOY So-yuk
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Dr Hon LO Wing-lok
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon MA Fung-kwok

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
Mr Watson CHAN	Head (Research and Library)
Ms Bernice WONG	Assistant Legal Adviser 1

Mr Stephen LAM	Assistant Legal Adviser 4
Mr Arthur CHEUNG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss CHENG Kit-ye, Kitty	Assistant Legal Adviser (Temp)
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 6th meeting held on 23 November 2001
(*LC Paper No. CB(2) 503/01-02*)

The minutes were confirmed.

II. Matters arising

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

Meeting with CS on 14 December 2001

2. The Chairman said that she had conveyed to Acting (Ag) CS Members' request that CS should stay for two hours instead of one at the special meeting of the House Committee on 14 December 2001. The Chairman further said that Ag CS had undertaken to relay the request to CS upon his return.

III. Business arising from previous Council meetings

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

Immigration (Amendment) Bill 2001
(*LC Paper No. LS 16/01-02*)

3. Presenting the report, the Legal Adviser explained that the Bill dealt with the acquisition of permanent resident status by Mainland officials posted to work in Hong Kong in their capacity as State officials after fulfilling the requirement of "ordinarily resident" in Hong Kong for a continuous period of not less than seven years. The Legal Adviser further explained that the Bill provided that such State officials working in Hong Kong should not be treated as "ordinarily resident" in Hong Kong.

4. The Legal Adviser said that when consulted on the Bill on 7 November 2001, some members of the Panel on Security queried whether the Bill would contravene the Basic Law.

5. The Legal Adviser referred Members to the letter dated 28 November 2001 from the Law Society of Hong Kong tabled at the meeting. He pointed out that the Law Society considered that the Bill was in apparent conflict with Article 24(2)(ii) of the Basic Law.

6. The Legal Adviser said that the Legal Service Division had also raised a number of drafting and other points with the Administration. He added that Members might wish to consider whether a Bills Committee should be set up to study the Bill in detail.

7. The Chairman proposed that a Bills Committee be formed to study the Bill. Members agreed. The following Members agreed to join : Miss Margaret NG, Mr CHEUNG Man-kwong, Mr Andrew WONG, Ms Emily LAU, Mr SZETO Wah, Mr Abraham SHEK and Ms Audrey EU.

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

(b) Legal Service Division report on subsidiary legislation gazetted on 23 November 2001

(LC Paper No. LS 26/01-02)

9. The Legal Adviser said that the Dutiable Commodities (Amendment) Regulation 2001 sought to require an application for a permit under the Dutiable Commodities Ordinance to be submitted in the form of an electronic record using a recognised electronic service. The Regulation also empowered the Commissioner of Customs and Excise to specify, by notice published in the Gazette, that an application could be submitted in paper form.

10. The Legal Adviser further said that the Legal Service Division was seeking clarification from the Administration on certain legal and technical issues on the Regulation.

11. The Chairman pointed out that representatives of the trade had expressed various concerns about the legislative proposal when it was discussed at the meeting of the Panel on Commerce and Industry on 26 June 2001. The Chairman said that although the Administration had indicated that it had since met with the trade to discuss their concerns, the Panel had not been informed of the latest development.

12. The Chairman proposed that a subcommittee be formed to study the Regulation. Members agreed. The following Members agreed to join : Ms Cyd HO, Mrs Selina CHOW and Ms Audrey EU.

13. Regarding the Companies (Summary Financial Reports of Listed Companies) Regulation, the Legal Adviser said that the Regulation in essence implemented the provisions of the Companies (Amendment) Ordinance 2001, and did not raise any new policy issues. The Legal Adviser added that the Regulation was in order. Members did not raise any query on the Regulation.

14. The Chairman reminded Members that the deadline for amending these two items of subsidiary legislation was the Council meeting on 19 December 2001, or 9 January 2002 if extended by resolution.

IV. Further business for the Council meeting on 5 December 2001

(a) **Questions**

(LC Paper No. CB(3) 196/01-02)

15. The Chairman drew Members' attention to the new oral question to be raised by Mr Ambrose LAU.

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

(i) **The Mizuho Corporate Bank, Ltd. (Hong Kong Consolidation) Bill**

16. The Chairman said that the Bill would be introduced into the Council on 5 December 2001 by Dr David LI and considered by the House Committee on 7 December 2001.

(ii) **The Bank of East Asia, Limited (Merger) Bill**

17. The Chairman said that the Bill would be introduced into the Council on 5 December 2001 by Mr NG Leung-sing and considered by the House Committee on 7 December 2001.

V. Business for the Council meeting on 12 December 2001

(a) **Questions**

(LC Paper No. CB(3) 197/01-02)

18. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 12 December 2001.

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

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

(c) **Government motion**

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

(d) **Members' motions**

(i) **Motion on "Monitoring the pay adjustment mechanisms of publicly-funded bodies and statutory bodies"**

21. The Chairman said that the above motion would be moved by Mr Albert HO, and the draft wording of the motion had been issued to Members.

(ii) **Motion on "Reviewing the Government's tendering system"**
(Wording of the motion issued vide LC Paper No. CB(3) 200/01-02 dated 29 November 2001.)

22. The Chairman said that the above motion would be moved by Mr Abraham SHEK, and the wording of the motion had been issued to Members.

23. The Chairman reminded Members that the deadline for giving notice of amendments, if any, was 5 December 2001.

VI. Report of Bills Committee and subcommittee on subsidiary legislation

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

(LC Paper No. CB(2) 505/01-02)

(Director of Administration's letter dated 27 November 2001 on proposed priority in the scrutiny of bills by Members)

24. The Chairman said that there were 14 Bills Committees and five subcommittees in action as well as 11 Bills Committees, including the Bills Committee on the Immigration (Amendment) Bill 2001 formed under agenda item III(a) above, on the waiting list.

25. The Chairman sought Members' views on the Director of Administration's request made in his letter dated 27 November 2001 that priority be given to the scrutiny of the Travel Agents (Amendment) Bill 2001. Members agreed to the request.

26. The Chairman added that as a vacant slot would become available at this meeting following the report of the Bills Committee on the Banking (Amendment) Bill 2001 under agenda item VI(b) below, the Bills Committee on the Travel Agents (Amendment) Bill 2001 on the waiting list could start work immediately.

(b) Report of the Bills Committee on Banking (Amendment) Bill 2001
(LC Paper No. CB(1) 398/01-02)

27. Presenting the report, Mr TSANG Yok-sing, Chairman of the Bills Committee, said that members had expressed doubts about the need to require authorized institutions (AIs) to notify the Hong Kong Monetary Authority (HKMA) before the opening of local offices. The Administration had explained that the notification requirement was to enable HKMA to know the locations of local offices to ensure that business was conducted in a proper manner.

28. Mr TSANG Yok-sing further said that members had raised concerns that the revised definition of "manager" would capture a broader spectrum of bank officials than under the current definition, and that more persons, including some lower level executives, would be caught by the strict liability offences in the Banking Ordinance. Mr TSANG informed Members that based on the results of an earlier survey on seven selected AIs conducted by the Administration, the number of managers captured under the new definition was 66 compared with 105 under the existing definition, representing a reduction of 37%. To ensure that a person was aware that he had been designated as a manager under the Ordinance, the Administration had agreed to introduce a Committee Stage amendment (CSA) to require AIs to give notice in writing to the person within 14 days of his appointment as a manager. Mr TSANG further informed Members that to prevent over-regulation of and intrusion into the autonomy of an AI in the appointment of senior staff, HKMA would make it an authorization criterion for AIs to maintain adequate systems of control to ensure the fitness and properness of their managers.

29. Mr TSANG Yok-sing added that the Bills Committee supported the resumption of the Second Reading debate on the Bill and the CSAs to be moved by the Administration.

(c) Report of the Subcommittee on Mutual Legal Assistance in Criminal Matters (Canada) Order, Mutual Legal Assistance in Criminal Matters (Philippines) Order and Mutual Legal Assistance in Criminal Matters (Portugal) Order
(LC Paper No. CB(2) 506/01-02)

30. Mr James TO, Chairman of the Subcommittee, said that the Subcommittee had completed the scrutiny of the three Orders, and the

deliberations of the Subcommittee were detailed in the report. Mr TO further said that the Subcommittee had compared the three Orders with the model agreement, and considered the Orders acceptable. Mr TO added that the Subcommittee supported the Administration's proposal to seek the Council's approval for the three Orders at the Council meeting on 19 December 2001.

31. The Chairman reminded Members that the Council could vote to either support or not support the passage of the motions to approve the Orders. However, the Council could not amend the Orders.

(d) Report of the Subcommittee on Public Health (Animals and Birds) (Amendment) Regulation 2001, Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2001 and Food Business (Amendment) Regulation 2001

(LC Paper No. CB(2) 454/01-02)

32. Mr Fred LI, Chairman of the Subcommittee, said that he made a verbal report at the last meeting of the House Committee on 23 November 2001. The written report was now provided for Members' reference.

33. Mr Fred LI said that the three Regulations sought to segregate live quails from other live birds at all levels from transportation to sale, and to require water bird carcasses to be dressed and packed separately from offal of water birds for sale at premises where live poultry were kept.

34. Mr Fred LI pointed out that members of the Subcommittee had different views on the need to segregate live quails from other live birds for sale. Some members were worried that the segregation measures would have the effect of "killing" the trade as in the case of the segregation of geese and ducks in 1998, and that the segregation measures would also be applied at a later stage to other birds which were sold for food. Mr LI said that the Administration had stressed that to safeguard public health, it was necessary to segregate live quails from other live poultry at all levels, as there was clear scientific evidence that the genetic material from H9 and H6 viruses carried by quails could mix with a mild goose-type H5 virus to form the lethal virus which led to the outbreak of avian flu in 1997.

35. Mr Fred LI further said that a member had proposed at the first meeting of the Subcommittee that the three Regulations should be repealed by the Administration or by the Subcommittee. The Subcommittee had taken a vote on the proposal. As the majority of members voted against the proposal, the Subcommittee decided not to proceed with the proposal. The Administration had also indicated that it would not repeal the three Regulations.

36. Mr Fred LI said that the Administration had accepted some of the Subcommittee's suggestions and would move amendments to certain

provisions of the Regulations. Mr LI further said that he would also move amendments on behalf of the Subcommittee to reduce the penalty for the new offences under the Public Health (Animals and Birds) (Animals Traders) (Amendment) Regulation 2001 and the Food Business (Amendment) Regulation 2001. Mr LI added that the Chairman, Mrs Selina CHOW, had also given notice to move motions, in her own name, to repeal the three Regulations.

(e) Third report of the Subcommittee on subsidiary legislation relating to Chief Executive election

(LC Paper No. CB(2) 507/01-02)

37. On behalf of Mr IP Kwok-him, Chairman of the Subcommittee, Mr TAM Yiu-chung reported that the Subcommittee had completed scrutiny of the two items of subsidiary legislation relating to the Chief Executive (CE) election gazetted on 9 November 2001, and the deliberations of the Subcommittee were detailed in the report.

38. Referring to the Maximum Amount of Election Expenses (Chief Executive Election) Regulation, Mr TAM Yiu-chung said that some Members who were not members of the Subcommittee also participated in the discussion on the Regulation. Mr TAM further said that these Members considered the proposed election expenses limit of \$9.5 million too high and had queried the basis for calculating the proposed limit. The Administration had explained that as the functions and powers conferred on CE covered a wide range of matters relating to the Hong Kong Special Administrative Region (HKSAR), the election expense limit for the CE election had to be sufficient for candidates to publicise their election platform to all residents of the HKSAR. Mr TAM added that Appendix I to the Subcommittee's report provided details on how the election expenses limit of \$9.5 million proposed by the Administration was arrived at.

39. Mr TAM said that the Subcommittee supported the Regulations and the technical amendments to be moved by the Administration to the Electoral Procedure (Chief Executive Election) Regulation.

40. Mr TAM Yiu-chung reminded Members that the deadline for giving notice of amendments to the Regulations was 5 December 2001.

VII. Paper of the Parliamentary Liaison Subcommittee on visit to Canada and the United States

(LC Paper No. CB(3) 185/01-02)

41. Dr LUI Ming-wah, Chairman of the Subcommittee, said that in accordance with the selection method agreed at the House Committee meeting

on 19 January 2001, seven Members had been nominated by the respective groups to take part in the visit to Canada and the United States. Dr LUI further said that the Liberal Party had not made any nomination.

42. Mr James TIEN sought clarification as to whether the expenses to be incurred by the delegation members would be charged to the allocation of \$61,000 for each Member to undertake overseas duty visits within a term. The Secretary General advised that expenses for parliamentary visits were budgeted for separately and would not be charged to the allocation of \$61,000 for each Member to undertake overseas duty visits of Panels and other committees.

43. The Chairman asked whether there was any objection to the Liberal Party being allowed to make a late nomination. Members raised no objection.

(Post-meeting note : Mr Tommy CHEUNG was subsequently nominated by the Liberal Party to join the visit to Canada and the United States.)

VIII. Any other business

44. There being no further business, the meeting ended at 2:55 pm.