

立法會
Legislative Council

LC Paper No. CB(2) 902/01-02

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 11th meeting
held in the Legislative Council Chamber
at 4:50 pm on Friday, 11 January 2002**

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 Cyd HO Sau-lan
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, JP
Hon James TO Kun-sun
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 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, BBS
Hon LAU Chin-shek, JP
Hon LAU Kong-wah
Hon 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 James TIEN Pei-chun, GBS, JP
Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon Margaret NG
Hon CHAN Yuen-han, JP
Hon LAU Wong-fat, GBS, JP
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 1

Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Miss Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Ms Anita SIT	Chief Assistant Secretary (1)6 (Temp)
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 10th meeting held on 4 January 2002
(LC Paper No. CB(2) 825/01-02)

The minutes were confirmed.

II. Matters arising

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

2. Regarding the visit to Canada by the Legislative Council (LegCo) delegation, the Chairman informed Members that CS had said that the Hong Kong Economic and Trade Office in Canada could provide assistance.

III. Business arising from previous Council meetings

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

(i) Interest on Arrears of Maintenance Bill 2001
(LC Paper No. LS 43/01-02)

3. The Legal Adviser said that the Bill was part of a package of legislative proposals to implement the recommendations of the "Inter-departmental Working Group on Review of law and administrative measures affecting divorcees and children who are eligible for alimony". The Legal Adviser further said that the original proposal of the Working Group was to impose a surcharge on late maintenance payment. As a result of the concern raised by the Hong Kong Bar Association, the Bill now proposed that an interest would be paid at the rate the same as other judgement debts, instead of imposing a surcharge.

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4. The Legal Adviser added that the proposals in the Bill had not been discussed by the Panel on Home Affairs. According to the LegCo Brief, the Bar Association and the Law Society of Hong Kong had been consulted and their suggestions had been incorporated in the Bill.

5. The Legal Adviser pointed out that the issue of assisting maintenance payees to enforce payment of maintenance was a matter of concern for certain sectors for the community and previous proposals in the same package had received detailed consideration by Members. In this connection, Members might wish to consider setting up a Bills Committee to examine the Bill in detail.

6. The Chairman proposed that a Bills Committee should be formed. Members agreed. The following Members agreed to join : Ms Cyd HO, Ms Miriam LAU, Miss CHOY So-yuk, Mr LAW Chi-kwong, Ms LI Fung-ying and Ms Audrey EU.

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

(ii) Registration of Persons (Amendment) Bill 2001
(LC Paper No. LS 42/01-02)

8. The Legal Adviser said that the Bill provided the legislative framework for the plan to introduce a new smart identity (ID) card with multi-application capacity. He added that Members might wish to set up a Bills Committee to study the Bill in view of the widespread concern over various aspects of the new ID card.

9. The Chairman said that although the relevant LegCo committees had been consulted on various occasions on the new ID card project, a Bills Committee should be formed to study the Bill in detail given widespread concern. Members agreed. The following Members agreed to join : Mrs Selina CHOW, Mr James TO, Mr SIN Chung-kai, Mr Howard YOUNG, Mr LAU Kong-wah, Ms Emily LAU, Mr Tommy CHEUNG and Mr MAK Kwok-fung.

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

11. Mr James TO asked whether the Administration had requested that priority be given to the scrutiny of the Bill. The Chairman responded that the Administration had not made such a request.

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(b) **Legal Service Division report on subsidiary legislation gazetted on 4 January 2002**

(LC Paper No. LS 45/01-02)

12. The Legal Adviser said that only one item of subsidiary legislation, the Tax Reserve Certificates (Rate of Interest) Notice 2002, was gazetted on 4 January 2002 and tabled in Council on 9 January 2002.

13. The Chairman reminded Members that the deadline for amending this item of subsidiary legislation was the Council meeting on 6 February 2002, or 27 February 2002 if extended by resolution.

IV. Other bills pending decision of the House Committee

Inland Revenue (Amendment) (No. 2) Bill 2001

(Report of the Panel on Financial Affairs on the deliberation of submission of tax returns by electronic means and by telephone with the use of a password -- LC Paper No. CB(1) 767/01-02)

[Previous papers: LC Paper No. LS 18/01-02 issued vide LC Paper No. CB(2) 468/01-02 dated 22 November 2001; and paragraphs 9 to 14 of the minutes of the 6th House Committee meeting on 23 November 2001 -- LC Paper No. CB(2) 503/01-02 issued vide LC Paper No. CB(2) 530/01-02 dated 28 November 2001]

14. Mr Ambrose LAU reported that the Panel on Financial Affairs (FA Panel) had discussed with the Administration on 7 January 2002 the submission of tax returns by electronic means and by telephone with the use of a password, and a report on the deliberations was provided for Members' information.

15. Mr Ambrose LAU said that the Administration had informed the Panel that telefiling of tax returns with the use of a password for authentication had already been implemented in some overseas tax jurisdictions. The Inland Revenue Department had also put in place administrative and technical measures to ensure the security of data, and Panel members generally considered the measures acceptable. Mr LAU added that the Secretary for the Treasury had provided supplementary information in response to concerns raised by the Panel, and a copy of the supplementary information was also tabled at the House Committee meeting.

16. Mr SIN Chung-kai said that the Administration hoped that the Bill could be enacted as early as possible so that taxpayers could use the new telefiling method in submitting those tax returns which were due in May 2002, if they so wished. Mr SIN further said that members had raised a number of

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questions at the FA Panel meeting, and the Administration had provided response to most of the questions raised. He added that the Administration's proposed amendment was acceptable, and he was satisfied with the measures put in place to safeguard system security. He said that he supported the resumption of the Second Reading debate on the Bill, and that a Bills Committee was not necessary.

17. Mr Eric LI said that the FA Panel had discussed in detail the suggestions put forward by the Hong Kong Society of Accountants (HKSA). The Administration had separately replied to HKSA on the points raised by HKSA, and a copy of the reply had also been circulated to Members. Mr LI further said that the Administration had agreed to move an amendment to remove the uncertainty given rise by the expression of "any other signing device" in the Bill. As the Bill was a simple proposal to provide the necessary legislative framework for the use of passwords in filing tax returns electronically, and since the Administration had addressed most of the concerns raised, HKSA supported early enactment of the Bill to tie in with the tax returns submission cycle commencing in April. Mr LI added that he did not consider a Bills Committee necessary.

18. Mr Eric LI informed Members he had requested the Administration to expeditiously conduct a comprehensive review of the Electronic Transactions Ordinance to ensure consistency of the terms used in this Ordinance and other related legislation concerning electronic transactions. He had also asked the Administration to consult the parties concerned in conducting the review.

19. Ms Emily LAU said that the Bill would affect some 800 000 taxpayers who would meet the eligibility criteria for telefiling. To ensure that the Bill would not give rise to problems in implementation, Ms LAU considered that the Bill should be examined in detail.

20. Mr SIN Chung-kai said that it was impossible to guarantee that there would not be any implementation problems. However, the Bill was only to provide an alternative mode of authentication in satisfying the signature requirement in filing tax returns and taxpayers could choose not to use this alternative mode. He added that should there be problems with the telefiling system itself, this would not be something that could be addressed in the Bill.

21. Mr Eric LI reiterated that the FA Panel had fully discussed the relevant issues and there was no need to set up a Bills Committee. He added that if a Bills Committee was to be set up, the Administration would again have to provide explanation on the existing Electronic Transactions Ordinance which would however be reviewed in a month's time.

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22. The Legal Adviser advised that the Bill was legally in order. He also informed Members that the Commissioner of Inland Revenue had separately replied to HKSA and the Professional Information Security Association, and the replies had just been circulated to Members.

23. The Chairman said that since Members would need time to consider the latest information provided by the Administration, a decision on the Bill should be deferred to the next House Committee meeting. The Chairman said that she would raise with CS whether the Administration would request Members to give priority to the scrutiny of the Bill, if a Bills Committee was formed. Members agreed.

V. Further business for the Council meeting on 16 January 2002

Government motions

(a) **Proposed resolution to be moved by the Secretary for Home Affairs under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Attachment of Income Order (Amendment) Rules 2001**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 310/01-02 dated 10 January 2002.)

24. The Chairman said that the Secretary for Home Affairs had given notice to move the proposed resolution at the Council meeting on 16 January 2002 to amend the Attachment of Income Order (Amendment) Rules 2001.

25. The Chairman added that the Subcommittee on the Attachment of Income Order (Amendment) Rules 2001 had completed scrutiny of the Rules and provided a report under agenda item VII(c) below.

(b) **Proposed resolution to be moved by the Secretary for Home Affairs under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Matrimonial Causes (Amendment) Rules 2001**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 311/01-02 dated 10 January 2002.)

26. The Chairman said that the Matrimonial Causes (Amendment) Rules 2001 were considered at the last House Committee meeting on 4 January 2002. The Chairman further said that Members had been informed that the Administration would move amendments to the Rules to remove an inconsistency between the Chinese and the English versions.

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VI. Business for the Council meeting on 23 January 2002

(a) Questions

(LC Paper No. CB(3) 302/01-02)

27. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 23 January 2002.

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

Prevention of Child Pornography Bill

28. The Chairman said that the Bill would be introduced into the Council on 23 January 2002 and considered by the House Committee on 25 January 2002.

(c) Government motion

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

(d) Members' motions

(i) Motion on "Scheme of Control Agreement"

30. The Chairman said that above motion would be moved by Mr Fred LI and the wording of the motion had been issued to Members.

(ii) Motion on "Promoting the use of Putonghua"

(Wording of the motion issued vide LC Paper No. CB(3) 309/01-02 dated 10 January 2002.)

31. The Chairman said that the above motion would be moved by Miss CHOY So-yuk and the wording of the motion had been issued to Members.

32. The Chairman reminded Members that the deadline for giving notice of amendments, if any, was 16 January 2002.

VII. Report of Bills Committee and subcommittee on subsidiary legislation

(a) Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 838/01-02)

33. The Chairman said that there were 14 Bills Committees and four subcommittees in action, as well as 12 Bills Committees, including the Bills

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Committee on Interest on Arrears of Maintenance Bill 2001 and Bills Committee on Registration of Persons (Amendment) Bill 2001 formed under agenda item III(a) above, on the waiting list.

34. The Chairman added that as there was a vacant slot, the Bills Committee on the Boilers and Pressure Vessels (Amendment) Bill 2001 on the waiting list could commence work.

(b) Report of the Bills Committee on Public Health and Municipal Services (Amendment) Bill 2001

(LC Paper No. CB(2) 818/01-02)

35. Mr Fred LI, Chairman of the Bills Committee, reported that the Bills Committee had completed scrutiny of the Bill which aimed to tighten control over unlicensed or unhygienic food establishments.

36. Mr Fred LI said that the Bill sought to shorten the time required for applying for a closure order from the court in respect of unlicensed food establishments, and to empower the Director of Food and Environmental Hygiene (DFEH) to make closure orders against food establishments if they posed an immediate health hazard, without having to go through court procedures. Mr LI added that the deliberations of the Bills Committee were detailed in the report.

37. Mr Fred LI further said that the Administration had agreed to move Committee Stage amendments (CSAs) to address most of the concerns raised by members, including the establishment of a statutory appeal board to hear appeals against closure orders made by DFEH.

38. Mr Fred LI said that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 23 January 2002 and the CSAs to be moved by the Administration.

(c) Report of the Subcommittee on Attachment of Income Order (Amendment) Rules 2001

(LC Paper No. CB(2) 824/01-02)

39. The Chairman said that the Subcommittee had provided a written report on its deliberations on the Attachment of Income Order (Amendment) Rules 2001. She further said that the Subcommittee supported the Rules and the amendment to be moved by the Secretary for Home Affairs at the Council meeting on 16 January 2002.

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VIII. Suggestion made by members of Sha Tin District Council on enhancing communication between the Legislative Council and District Councils
(*LC Paper No. CB(2) 813/01-02*)

40. Referring to the paper, the Chairman said that at a meeting held between LegCo Members and Sha Tin District Council (DC) members on 29 November 2001, views were exchanged on how communication between the LegCo and DCs should be enhanced. Sha Tin DC members had suggested, among other things, that LegCo Members should listen to the views of DC members on major policy issues.

41. The Chairman further said that LegCo committees mainly adopted the following approaches to seek views on major issues, policy initiatives, legislative proposals, etc. -

- (a) If a subject matter concerned specific organisations or persons, the relevant committee would write to invite these organisations or persons, including the DCs concerned, to give their views on the subject matter; or
- (b) If a subject matter concerned the public in general, the relevant committee would invite views by issuing press releases, or placing advertisements in newspapers, or announcing invitations for views on the LegCo website.

42. The Chairman said that in the circumstances described in paragraph 41(b) above, the LegCo committees concerned should also write to the 18 DCs to invite them to give views, as proposed in paragraph 5 of the paper.

43. The Chairman further said that to make it even more convenient for DC members to find out the forthcoming items of discussion of LegCo committees, paragraph 7 of the paper proposed that the LegCo Secretariat should send the list of weekly activities of LegCo, which was available on the LegCo website, to individual DC Secretariats vide e-mail.

44. Dr YEUNG Sum, Mr IP Kwok-him and Mr CHEUNG Man-kwong expressed support for the proposals.

45. Dr YEUNG Sum asked whether the proposals had any resource implications. Mr CHEUNG Man-kwong said that Members belonging to the Democratic Party were of the view that perhaps The Legislative Council Commission should be invited to first examine the resource implications before a decision was taken on the matter.

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46. The Secretary General advised that the implementation of the proposals would not entail too much work for the LegCo Secretariat and no additional resources would be required.

47. Mr IP Kwok-him said that Members should try their best to attend the meetings-cum-luncheons with DC members. Ms Emily LAU concurred with Mr IP.

48. Ms Emily LAU said that the LegCo Secretariat should enlist the assistance of the Home Affairs Department (HAD) Headquarters to ensure that DC Secretariats would send the list of LegCo weekly activities to individual DC members. Ms LAU further said that the Convenors of forthcoming meetings-cum-luncheons should inform the DCs of the new arrangements.

49. The Chairman instructed the LegCo Secretariat to take necessary follow-up actions.

IX. Any other business

50. There being no further business, the meeting ended at 5:25 pm.