

立法會
Legislative Council

LC Paper No. CB(2) 951/01-02

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 12th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 18 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 James TIEN Pei-chun, GBS, 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 David LI Kwok-po, GBS, JP
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon CHAN Yuen-han, JP
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 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

Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Mr Stephen LAM	Assistant Legal Adviser 4
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

Action

I. Confirmation of the minutes of the 11th meeting held on 11 January 2002
(*LC Paper No. CB(2) 902/01-02*)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman informed Members that her meeting with CS on Monday, 14 January 2002, was cancelled as CS was not feeling well. As regards whether the Administration would request Members to accord priority to the scrutiny of the Inland Revenue (Amendment) Bill 2001, if a Bills Committee was formed, the Chairman said that she had raised the matter with the Director of Administration (D of Adm) and would report under agenda item (b) below.

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

3. The Chairman said that a decision on the Bill was deferred from the last House Committee meeting to allow Members more time to study the latest information provided by the Administration.

4. The Legal Adviser advised that the Bill proposed to make provisions under the principal ordinance not only to take over from the Electronic Transactions Ordinance the power to allow tax returns in electronic form with the use of digital certificates, but also to empower the submission of tax returns in electronic form where a password is used and by telephone. The Legal Adviser said that the Administration would move an amendment to delete "any other signing device" from clause 8 of the Bill, in response to a concern raised by the Hong Kong Society of Accountants. He further said that the Bill and the proposed amendment were legally in order. The Legal Adviser added that as telefiling was a new service, the Administration

Action

envisaged that taxpayers would need time to get used to it, and the initial take-up rate would not be too high.

5. The Chairman informed Members that D of Adm had advised that the Administration had no strong views that the Bill should be enacted urgently to enable taxpayers to use the new telefiling method in submitting those tax returns which were due in May this year. The Administration would not, therefore, request Members to give priority to the scrutiny of the Bill, if a Bills Committee was formed. The Chairman said that although the Panel on Financial Affairs had discussed the subject of submission of tax returns by electronic means and by telephone with the use of a password, the Bill itself had not been examined in detail. She asked whether a Bills Committee should be set up to scrutinize the Bill.

6. Dr YEUNG Sum said that as the Administration did not consider that there was urgency in enacting the Bill, he supported that a Bills Committee should be set up and placed on the waiting list, in accordance with normal practice.

7. Mr TSANG Yok-sing also expressed support for the setting up of a Bills Committee. He added that if the Bill could not be enacted before the new tax return cycle commencing in April/May 2002, taxpayers would not be affected as they could still submit their tax returns using existing methods.

8. The Chairman proposed that a Bills Committee should be formed. Members agreed. The following Members agreed to join : Miss Margaret NG, Mr HUI Cheung-ching, Mr CHAN Kwok-keung and Mr Howard YOUNG.

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

III. Further report by the Legal Service Division on two items of subsidiary legislation gazetted on 28 December 2001 and tabled in Council on 9 January 2002

Securities and Futures Commission (Levy) (Futures Contracts) (Amendment) (No. 3) Order 2001 (L.N. 296 of 2001)

Commodities Trading (Contract Levy) (Amendment) (No. 3) Rules 2001 (L.N. 301 of 2001)

(LC Paper No. LS 48/01-02)

10. The Legal Adviser informed Members that the Legal Service Division had asked the Securities and Futures Commission (SFC) to explain the reason for the Commodities Trading (Contract Levy) (Amendment) (No. 3) Rules 2001 (the Amendment Rules) to adopt a drafting style different from that of the Securities and Futures Commission (Levy) (Futures Contracts)

Action

(Amendment) (No. 3) Order 2001 (the Amendment Order), given that the two items were similar in nature. He further informed Members that to synchronize the drafting of the provisions in these two items of subsidiary legislation, SFC had proposed to repeal the Amendment Rules by the Commodities Trading (Contract Levy) (Amendment) Rules 2002 (the Amendment Rules 2002) which sought to achieve the same policy object as that in the Amendment Rules, but in drafting terms similar to those of the Amendment Order.

11. The Legal Adviser said that SFC had proposed to gazette the Amendment Rules 2002 on 25 January 2002 and to bring the Amendment Rules 2002 to come into operation on the same day as the commencement of the Amendment Order. The Legal Adviser further said that the legal and drafting aspects of the proposed Amendment Rules 2002 were in order, and that Members might wish to consider either -

- (a) amending by resolution the Amendment Rules along the line as proposed in the Amendment Rules 2002; or
- (b) supporting the SFC's proposal to repeal the Amendment Rules by the Amendment Rules 2002 together with the amendments therein.

12. Referring to SFC's proposal to repeal the Amendment Rules by the Amendment Rules 2002, Mr Henry WU asked whether there had been such precedents.

13. The Legal Adviser advised that although there had not been many occasions in the past where an item of subsidiary legislation had to be repealed and replaced by a new one in the manner proposed by SFC, it was legally in order to do so.

14. Mr IP Kwok-him said that he supported SFC's proposal to repeal the Amendment Rules by the Amendment Rules 2002 as the Amendment Rules 2002 would still be subject to the negative vetting procedure of the Legislative Council (LegCo).

15. Miss Margaret NG said that as the two items of subsidiary legislation were proposed by SFC and since both options to amend the Amendment Rules were legally in order, she would respect the proposal of SFC to repeal the Amendment Rules by the Amendment Rules 2002.

16. Members agreed that the Amendment Order be supported, as recommended by the Legal Service Division. Members also supported the proposal of SFC to gazette the Amendment Rules 2002 on 25 January 2002 to repeal the Amendment Rules.

Action

IV. Further business for the Council meeting on 23 January 2002

Bills - resumption of debate on Second Reading, Committee Stage and Third Reading

Public Health and Municipal Services (Amendment) Bill 2001

17. The Chairman said that the Bills Committee had provided a report at the House Committee meeting on 11 January 2002, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

V. Business for the Council meeting on 30 January 2002

(a) Questions

(LC Paper No. CB(3) 324/01-02)

18. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 30 January 2002.

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

(i) Dutiable Commodities (Amendment) Bill 2002

(ii) Companies (Amendment) Bill 2002

19. The Chairman said that the above two Bills would be introduced into the Council on 30 January 2002 and considered by the House Committee on 1 February 2002.

(c) Government motion

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

(d) Members' motion

Motion on "Rest time and rest days for employees"

(Wording of the motion issued vide LC Paper No. CB(3) 338/01-02 dated 17 January 2002.)

21. The Chairman said that only Mr LAU Chin-shek had applied for a debate slot, and the wording of Mr LAU's motion had been issued to Members.

22. The Chairman reminded Members that the deadline for notice of amendments, if any, was 23 January 2002.

VI. Report of Bills Committee and subcommittee on subsidiary legislation

Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 908/01-02)

23. The Chairman said that there were 15 Bills Committees and four subcommittees in action as well as 12 Bills Committees, including the Bills Committee on the Inland Revenue (Amendment) (No. 2) Bill 2001 formed under agenda item II(b) above, on the waiting list.

VII. Report of the Panel on Welfare Services concerning the lack of consultation on the "Financial Assistance Scheme for Family Members of those who Sacrifice their Lives to Save Others"

(LC Paper No. CB(2) 914/01-02)

24. Miss CHAN Yuen-han, Chairman of the Panel, said that members of the Panel on Welfare Services had expressed deep regret at the Administration's total disregard of LegCo by only informing Members of the "Financial Assistance Scheme for Family Members of those who Sacrifice their Lives to Save Others" on the day it took effect, i.e. 9 January 2002. Miss CHAN further said that the Scheme involved new policy and had financial implications. The Panel considered that in line with established practice, the Administration should have consulted LegCo before implementing the Scheme. Miss CHAN added that the Panel agreed to seek the support of the House Committee for the matter to be raised with CS.

25. Mr LAW Chi-kwong said that the Administration had estimated that the maximum financial implications of the Scheme would be in the region of \$12 million per annum. Mr LAW pointed out that as any financial proposal exceeding \$10 million required the approval of the Finance Committee, the Administration should have consulted the Panel prior to finalising the proposal, in accordance with established practice. Mr LAW further said that he was not convinced that there was any great urgency in implementing the Scheme on 9 January 2002, before consulting LegCo and the public.

26. The Chairman said that she would raise the matter at her meeting with CS on Monday, 21 January 2002. Members agreed.

VIII. Paper of the Committee on Rules of Procedure

Follow-up on measures to improve the mechanism for the scrutiny of legislative and financial proposals

(LC Paper No. CROP 1/01-02)

27. Mr TSANG Yok-sing, Chairman of the Committee on Rules of Procedure (CRoP), said that further to its report to the House Committee in

Action

June 2001, CRoP had discussed with D of Adm the deadline for provision of discussion papers for committee meetings. Mr TSANG informed Members that CRoP and D of Adm had agreed on the following proposed arrangements to provide different deadlines for different scenarios in relation to Panel meetings -

- (a) The Administration was required to provide papers at least five clear days before the relevant Panel meeting for items with at least three weeks' notice;
- (b) The Administration was required to provide papers at least two clear days before the relevant Panel meeting for items involving time critical proposals, e.g. urgent financial proposals, or where the need to consult Panels did not arise until a very late stage;
- (c) The Administration was required to provide papers as soon as practicable for items with less than three weeks' notice; certain policy initiatives which could not be released prior to the approval of the Executive Council; and matters involving commercially sensitive information; and
- (d) Panel Chairmen would decide whether or not the relevant item should be deleted from the agenda if the papers were not received by the deadline.

28. Mr TSANG Yok-sing further informed Members that CRoP had also considered the need to impose a deadline for providing discussion papers or draft Committee Stage amendments (CSAs) for Bills Committee meetings. Members had found it difficult to set a deadline across the board, because the frequency of meetings of Bills Committee varied from case to case. CRoP had proposed that in line with the arrangement for late provision of discussion papers for Panels, the Chairman of the relevant Bills Committee could decide not to discuss the draft CSAs that arrived too late before the meeting, if the situation warranted.

29. Mr TSANG Yok-sing said that subject to Members' agreement to the recommendations in paragraphs 27 and 28 above, Members' advice was also sought on the following arrangements, as proposed in paragraph 9 of the paper -

- (a) whether, in view of the Administration's request that sufficient notice be given before the new arrangements were to take effect, the new arrangements should take effect from 1 March 2002 ;
- (b) whether the Administration should also be asked to arrange, as far as possible, for papers to be provided by 11:00 am if a deadline fell on a day before a public holiday, so that the papers could be despatched to Members on the same day.

Action

30. Dr YEUNG Sum said that Members belonging to the Democratic Party supported the recommendations of CRoP. Dr YEUNG further said that the recommendations should be implemented as soon as possible. He pointed out that if discussion papers were provided by the Administration at the last minute before the relevant meetings, Members would not have sufficient time to study the papers and also make necessary consultation. This would in turn affect the effectiveness of discussion at committee meetings.

31. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment of Hong Kong were in support of CRoP's recommendations. He said that sometimes the Administration's papers arrived very late. He hoped that the situation would improve with the implementation of these arrangements for provision of papers for committee meetings.

32. Members endorsed the recommendations of CRoP as discussed in paragraphs 27 to 29 above. The Chairman said that she would write to CS to inform him of the details. Members agreed.

IX. Any other business

33. There being no further business, the meeting ended at 2:58 pm.