

立法會
Legislative Council

LC Paper No. CB(2) 1248/01-02

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 16th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 1 March 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

Dr Hon David CHU Yu-lin, JP

Hon Cyd HO Sau-lan

Ir Dr Hon Raymond HO Chung-tai, JP

Hon LEE Cheuk-yan

Hon Martin LEE Chu-ming, SC, JP

Hon Eric LI Ka-cheung, JP

Dr Hon LUI Ming-wah, JP

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 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 Kong-wah

Hon LAU Wong-fat, GBS, 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 Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Dr Hon LO Wing-lok
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
Dr Hon David LI Kwok-po, GBS, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon WONG Yung-kan
Hon LAU Chin-shek, JP
Hon Miriam LAU Kin-yee, JP
Hon CHOY So-yuk
Hon LEUNG Fu-wah, MH, JP
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee

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
Ms Bernice WONG	Assistant Legal Adviser 1
Miss Anita HO	Assistant Legal Adviser 2
Mr Stephen LAM	Assistant Legal Adviser 4
Miss Kitty CHENG	Assistant Legal Adviser 5
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mr Andy LAU	Chief Assistant Secretary (1)2
Miss Polly YEUNG	Chief Assistant Secretary (1)3
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 15th meeting held on 22 February 2002
(*LC Paper No. CB(2) 1194/01-02*)

The minutes were confirmed.

II. Matters arising

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

(LC Paper No. CB(2) 1206/01-02 dated 26 February 2002 on "Budget Arrangements")

Budget arrangements

2. The Chairman said that she had conveyed Members' views and request to CS, and Members were informed of CS's response vide LC Paper No. CB(2) 1206/01-02 dated 26 February 2002.

3. Ms Emily LAU said that it was regrettable that the Financial Secretary (FS) had introduced changes to the Budget arrangements without consulting LegCo, but on CS's part, he should not have merely passed on the message to the Deputy Chairman. Ms LAU pointed out that CS should know that the changes would affect the operation of the Legislative Council (LegCo). CS had the responsibility to remind his colleagues of the need to consult LegCo and not to have allowed such important changes to be introduced unilaterally by the Administration. Ms LAU said that she was not convinced that it was not possible to revert to the existing practice. She further said that discussion on the Budget arrangements for next year should start as early as possible, and she hoped that Members could reach a consensus.

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4. The Chairman responded that she had conveyed to CS that what Members found unacceptable was not so much the merits of the changes to the Budget arrangements, but the way the changes were introduced. The Chairman pointed out that FS had explained in his letter of 21 February 2002 that the new arrangements were to be "tried out" for this year. CS had also made it very clear that the new arrangements could be reviewed afterwards. The Chairman further said that discussion would be held with the Administration, perhaps through the Committee on Rules of Procedure, and that Members would be able to give their views on whether the new arrangements should continue for the next Budget.

5. Dr YEUNG Sum said that he accepted the apology extended by CS. However, he was not convinced that the revenue and expenditure parts had to be presented at the same time for reason that there was a lot of cross-referencing in the Budget. He reckoned that it was not possible to revert to the existing practice because it was already too late to do so. Dr YEUNG said that FS should respect LegCo and should have consulted Members on the changes to the Budget arrangements.

Attendance of CS at House Committee meeting

6. The Chairman said that CS did not intend to present to Members a written report on his visit to Beijing in the previous week. CS had informed her that during the visit, he had met with Mainland government officials whom he had not had the opportunity to do so when he was FS. CS had briefed them on the developments in Hong Kong, e.g. accountability of senior government officials. The Chairman further said that CS had proposed to brief Members on his visit to Beijing at his next meeting with the House Committee.

7. The Chairman informed Members that CS had suggested that his next meeting with the House Committee be held in mid-April. The Secretary General had already liaised with CS's office and obtained the dates of 19 or 26 April 2002. The Chairman proposed that the meeting be held on 19 April 2002 at 2:30 pm as no Finance Committee or House Committee meeting had been scheduled for that day. Members agreed.

8. Referring to the report of the Panel on Administration of Justice and Legal Services (AJLS Panel) to be made under agenda item VI below, Ms Emily LAU asked whether the subject of Government's policy on legislation and administrative measures would also be discussed at the meeting on 19 April 2002. The Chairman said that the subject could also be discussed, if Members agreed to the Panel's recommendations. The Chairman added that she would ask CS how long he could stay for the meeting.

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(b) **Dutiable Commodities (Amendment) Bill 2002**

(Paragraphs 9 to 11 of the minutes of the 15th House Committee meeting on 22 February 2002)

(LC Paper No. LS 60/01-02)

[Previous paper: LC Paper No. LS 49/01-02 issued vide LC Paper No. CB(2) 1025/01-02 dated 31 January 2002]

9. The Chairman said that Members agreed at the last two meetings to defer a decision on the Bill pending the Administration's reply to the queries raised by the Legal Service Division.

10. The Legal Adviser informed Members that the further report had not incorporated the Administration's response as it was only received late the day before after the further report had been issued. The Legal Adviser further informed Members that the Administration had provided a substantive reply to the queries raised by the Division and had also proposed some Committee Stage amendments (CSAs) to the Bill.

11. The Chairman suggested that a Bills Committee should be set up to study the Bill and the Administration's response in detail. Members agreed. The following Members agreed to join : Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kam-lam, Mr SIN Chung-kai, Mr Andrew WONG, Mr Abraham SHEK and Ms Audrey EU.

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

(c) **Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (10 of 2001) (Commencement) Notice 2002**

(Hon Cyd HO Sau-lan's letter dated 26 February 2002)

(Press release issued by Information Services Department dated 25 February 2002 on "Government committed to helping drug treatment centres to comply with licensing requirements" (LC Paper No. CB(2) 1219/01-02(01))

(Narcotics Division's letter dated 28 February 2002 on "Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (10 of 2001) (Commencement) Notice 2002 (L.N.20)")

[Previous paper: LC Paper No. LS 54/01-02 issued vide LC Paper No. CB(2) 1153/01-02 dated 21 February 2002]

13. Ms Cyd HO said that Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance was passed by the Council in April 2001, and that the Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (10 of 2001) (Commencement) Notice 2002 appointed 1 April 2002 as the day on which the Ordinance would come into operation. Ms HO further said that during the scrutiny of the Bill by the relevant Bills Committee, the Administration had agreed that the Ordinance

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would not come into operation immediately after its passage to enable preparatory work to be carried out.

14. Referring to her letter to the Chairman, Ms Cyd HO pointed out that some rehabilitation centres were worried that they might not be able to obtain the necessary licence to continue their operation because of the problem of land use. She therefore suggested that a subcommittee should be set up so that Members could better understand the problems faced by these centres. Ms Cyd HO further pointed out that as the deadline for amending the Commencement Notice was 6 March 2002, or 13 March 2002 if extended by resolution, the subcommittee would have to work under a very tight schedule.

15. The Chairman said that the Commissioner for Narcotics had also written to her on the matter and the Commissioner's letter dated 28 February 2002 had already been circulated to Members.

16. Mr LAW Chi-kwong said that Ms HO's suggestion should be considered. Mr LAW pointed out that the Bills Committee had discussed the problem of land use during the scrutiny of the Bill, but not in great detail. Mr LAW further said that it was LegCo's responsibility to consider the concerns of the affected parties. Moreover, setting up a subcommittee would provide an opportunity for the Administration to explain its plans and progress of work in assisting the centres to comply with the licensing requirements within the exemption period. Mr LAW further said that if Members agreed to form a subcommittee, it should start work as early as possible because of the tight schedule.

17. Mr IP Kwok-him said that he was a member of the Bills Committee formed to study the Bill. He further said that the Bills Committee had considered the issue of land use, but he did not object to the setting up of a subcommittee to enable the affected centres to express their concerns.

18. The Chairman proposed that a subcommittee be formed to study the Commencement Notice. Members agreed. The following Members agreed to join : Ms Cyd HO, Mr James TO (advised by Mr LAW Chi-kwong), Mr LAW Chi-kwong, Mr Michael MAK and Dr LO Wing-lok.

19. The Chairman said that to allow time for the subcommittee to examine the Commencement Notice, she would move a motion at the Council meeting on 6 March 2002 to extend the scrutiny period to 13 March 2002. Members agreed. She further said that the deadline for giving notice of amendments was 6 March 2002, if the scrutiny period was extended to 13 March 2002, and that the subcommittee should report to the House Committee on 8 March 2002.

20. Ms Cyd HO said that the affected centres and the Administration had already been informed that two meetings had tentatively been scheduled for 4 and 5 March 2002 at 10:45 am and 8:30 am respectively, subject to the House Committee's agreement to form a subcommittee to study the Commencement Notice.

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)**

Employees Compensation Assistance (Amendment) Bill 2002

(LC Paper No. LS 55/01-02)

(Director of Administration's letter dated 28 February 2002 on "Proposed priority in the scrutiny of bills by Members")

21. Referring to the paper, the Legal Adviser said that the Bill was part of the rescue package proposed by the Administration for the Employees Compensation Assistance Fund. It sought to amend the Employees Compensation Assistance Ordinance with a view to improving the financial stability of the Fund.

22. The Legal Adviser explained that the Bill comprised amendments covering a broad range of issues. It sought, inter alia, to increase the rate of levy on the premium of employees' compensation insurance from 5.3% to 6.3% and to adjust the distribution of such levy income amongst the Employees Compensation Assistance Fund Board, the Occupational Safety and Health Council and the Occupational Deafness Compensation Board. The Bill also sought to empower the Board to apply to the court in certain circumstances to join as a party to proceedings which might affect the Fund.

23. The Legal Adviser said that according to the LegCo Brief on the Bill, the Administration had consulted the Panel on Manpower, the Employees Compensation Assistance Fund Board, the Labour Advisory Board and the Occupational Deafness Compensation Board on the financial arrangements of the rescue package.

24. The Legal Adviser added that in view of the significance of the proposed amendments and the broad interests affected, Members might wish to form a Bills Committee to study the Bill in detail.

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25. Mr James TIEN suggested that a Bills Committee should be set up. He said that some employers had expressed concern that the financial stability of the Fund had suffered from the provisional liquidation of the HIH Group of insurance companies in April 2001 which was triggered off by the insolvency of their parent company in Australia. To address the employers' concerns, he considered that the Financial Services Bureau should also be invited to explain to the Bills Committee, if formed, how the existing regulatory regime applied to insurance companies with parent companies in overseas countries.

26. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr Kenneth TING, Mr James TIEN, Mr LEE Cheuk-yan, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr Andrew CHENG, Mr Abraham SHEK, Ms LI Fung-ying and Ms Audrey EU.

27. Referring to the Director of Administration's letter of 28 February 2002, the Chairman sought Members' view on the request made in the letter that priority be given to the scrutiny of the Bill. Members agreed to the request.

28. The Chairman added that as there would be a vacant slot after the Bills Committee on Dangerous Goods (Amendment) Bill 2000 had reported under item V(b) below, the Bills Committee on Employees Compensation Assistance (Amendment) Bill 2002 could commence work immediately.

(b) Legal Service Division report on subsidiary legislation gazetted on 22 February 2002

(LC Paper No. LS 59/01-02)

29. The Legal Adviser said that only one item of subsidiary legislation, the Statutes of The Chinese University of Hong Kong (Amendment) Statutes 2002, was gazetted on 22 February 2002. The Legal Adviser explained that the Statutes empowered the Senate to assign teachers to Faculties as well as to Departments, School of Studies and units of the University with a view to allowing greater flexibility in the assignments of teachers.

30. The Legal Adviser further said that the legal and drafting aspects of the Amendment Statutes were in order.

31. Members did not raise any query on the subsidiary legislation.

32. The Chairman reminded Members that the deadline for amendment to the subsidiary legislation was 13 March 2002, or 10 April 2002 if extended by resolution.

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IV. Business for the Council meeting on 13 March 2002

(a) Questions

(LC Paper No. CB(3) 435/01-02)

33. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 13 March 2002.

(b) Bills - First and Second Readings

Extension of Vetting Period (Legislative Council) Bill 2002

34. The Chairman said that the Bill would be introduced into the Council on 13 March 2002 and considered by the House Committee on 22 March 2002.

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

(i) Securities and Futures Bill

(ii) Banking (Amendment) Bill 2000

35. The Chairman said that the relevant Bills Committee had reported to the House Committee on 22 February 2002, and Members did not raise objection to the resumption of the Second Reading debate on the two Bills.

(d) Government motions

(i) Proposed resolution to be moved by the Secretary for Commerce and Industry under the Hong Kong Export Credit Insurance Corporation Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 439/01-02 dated 27 February 2002.)

(LC Paper No. LS 61/01-02)

36. The Legal Adviser said that the Secretary for Commerce and Industry had given notice to move a motion at the Council meeting on 13 March 2002 to seek the Council's approval to increase the maximum contingent liability of the Hong Kong Export Credit Insurance Corporation (ECIC) under contracts of insurance from \$10 billion to \$12.5 billion.

37. The Legal Adviser further said that according to the Administration, the ECIC's contingent liability as at 31 December 2001 amounted to \$9,479 million, or 95% of the maximum liability permitted. The ECIC forecast that the existing cap on its contingent liability would be reached by May 2002. To cater for business growth in the next few years, the ECIC proposed to raise the cap by \$2.5 billion to \$12.5 billion. This proposal

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was supported by the ECIC Advisory Board and agreed by the Government. The Legal Adviser added that the maximum contingent liability of the Corporation at \$10,000 million had been in effect since December 1997.

38. Members did not raise any query on the proposed resolution.

(ii) **Proposed resolution to be moved by the Secretary for the Treasury under the Public Finance Ordinance**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 430/01-02 dated 22 February 2002.)

(LC Paper No. LS 58/01-02)

39. The Legal Adviser said that the motion was made in accordance with section 7(1) of the Public Finance Ordinance. The purpose of the motion was to seek funds on account to enable the Government to carry on existing services between the start of the next financial year on 1 April 2002 and the enactment of the Appropriation Ordinance. The Legal Adviser further explained that the funds on account sought under each subhead were calculated in percentage terms by reference to the provisions shown in the draft Estimates of Expenditure 2002-03. The aggregate total sum sought under all heads was fixed at \$76,256,151,000 this year.

40. The Legal Adviser added that the legal and drafting aspects of the draft resolution were in order.

41. Members did not raise any query on the proposed resolution.

(e) **Members' motions**

(i) **Motion on "The second Chief Executive election"**

(Wording of the motion issued vide LC Paper No. CB(3) 443/01-02 dated 28 February 2002.)

42. The Chairman said that the motion would be moved by Ms Emily LAU and the wording had been issued to Members.

(ii) **Motion on "Improving administrative procedures to enhance efficiency"**

(Wording of the motion issued vide LC Paper No. CB(3) 444/01-02 dated 28 February 2002.)

43. The Chairman said that the motion would be moved by Mr CHAN Kwok-keung and the wording had been issued to Members.

44. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was 6 March 2002.

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V. Report of Bills Committee and subcommittee on subsidiary legislation

(a) Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 1210/01-02)

45. The Chairman said that there were 14 Bills Committees and five subcommittees in action as well as 12 Bills Committees on the waiting list, including the Bills Committee on Dutiable Commodities (Amendment) Bill 2002 formed under agenda item II(b) above.

(b) Report of the Bills Committee on Dangerous Goods (Amendment) Bill 2000

(LC Paper No. CB(1) 1092/01-02)

46. Referring to the report, the Chairman said that the Bills Committee had completed scrutiny of the Bill, and the deliberations of the Bills Committee were detailed in the report.

47. The Chairman further said that the Administration had accepted the Bills Committee's view to move a number of CSAs to improve the contents and drafting of the Bill. The Chairman added that the Bills Committee supported resumption of the Second Reading debate on the Bill on 13 March 2002.

48. Members did not raise objection to the resumption of the Second Reading debate on the Bill. The Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 4 March 2002.

VI. Report of the Panel on Administration of Justice and Legal Services concerning Government's policy on legislation and administrative measures

(LC Paper No. CB(2) 1214/01-02)

49. Mr TSANG Yok-sing reported on behalf of Miss Margaret NG, Chairman of the AJLS Panel, who was unable to attend the meeting. Mr TSANG said that in November 2001, subsequent to the House Committee's discussion on issues relating to the 2001-02 legislative programme, the AJLS Panel decided to invite CS to brief the Panel on Government's policy on legislation and administrative measures.

50. Mr TSANG Yok-sing informed Members that CS initially agreed to attend a Panel meeting on a date to be fixed, but recently wrote to the Chairman of the Panel suggesting that it would be more appropriate for him to have an exchange of views with Members at his next regular meeting with the House Committee, as Members other than members of the AJLS Panel might also be interested in the Administration's view on the subject. Mr TSANG further informed Members that the Panel had discussed and agreed to CS's suggestion at its meeting on 25 February 2002. The Panel also recommended that -

- (a) the subject be included as a separate agenda item for CS's next regular meeting with the House Committee; and

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(b) adequate time should be provided for discussion of the subject.

51. Members agreed to the Panel's recommendations. Ms Emily LAU requested the Secretariat to prepare a background paper on the subject for the meeting.

52. The Chairman said that she would inform CS that in addition to his two recent visits to Beijing, the subject of Government's policy on legislation and administrative measures would be included in the agenda of his meeting with the House Committee on 19 April 2002. Ms Emily LAU also requested the Secretariat to provide Members with background information on CS' s two recent visits to Beijing, if available.

VII. Any other business

53. There being no further business, the meeting ended at 3:04 pm.