

立法會
Legislative Council

LC Paper No. CB(2) 1754/01-02

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 20th meeting
held in the Legislative Council Chamber
at 3:58 pm on Friday, 26 April 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

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 Eric LI Ka-cheung, JP

Dr Hon LUI Ming-wah, JP

Hon NG Leung-sing, JP

Hon Margaret NG

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 WONG Yung-kan

Hon Jasper TSANG Yok-sing, JP

Hon Howard YOUNG, JP

Dr Hon YEUNG Sum

Hon YEUNG Yiu-chung, BBS

Hon LAU Kong-wah

Hon Miriam LAU Kin-ye, JP

Hon Ambrose LAU Hon-chuen, GBS, JP

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
Miss Connie FUNG	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Monna LAI	Assistant Legal Adviser 7
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

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I. Confirmation of the minutes of the 19th meeting held on 12 April 2002
(LC Paper No. CB(2) 1596/01-02)

The minutes were confirmed.

II. Matters arising

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

Hon Cyd HO's letter to Chairman of the House Committee concerning the luncheon speech given by CS on 18 March 2002

2. Regarding the points raised in Ms Cyd HO's letter, the Chairman said that CS had stressed that he had full respect for the Legislative Council (LegCo), and he hoped that there would not be any unnecessary misunderstanding.

3. The Chairman further said that CS had explained that the Chief Executive (CE) first mentioned the proposed accountability system in his Policy Address in 2000 and provided a clearer outline in 2001, and he had not gone beyond what CE had said. As for the point regarding the Executive Council (ExCo) meeting on 9 April 2002, CS had responded that he could not comment on ExCo's agenda items, as they were confidential. He could only say that the details of the accountability system were still being worked out

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over the weekend following the ExCo meeting, and the Council meeting on 17 April 2002 was the earliest opportunity for CE to brief Members all at the same time.

4. The Chairman added that CS had denied that the Administration had intentionally leaked information to the media, and it was not possible to stop the media from speculating.

5. The Chairman informed Members that the Deputy Chairman had emphasized to CS that as a matter of principle, the Administration should brief LegCo as early as possible when ExCo had taken a decision.

6. Ms Cyd HO sought clarification on whether CS had responded to Members' queries as to why there were so many "informed sources" providing information to the press.

7. The Chairman said that CS had strongly denied that the Administration had leaked information to the media. CS had pointed out that the Administration had come forward to make clarification in respect of some press reports about the proposed accountability system which were too far-fetched.

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)

(i) Revenue Bill 2002
(LC Paper No. LS 78/01-02)

(ii) Revenue (No. 2) Bill 2002
(LC Paper No. LS 79/01-02)

8. The Legal Adviser informed Members that pursuant to the House Committee's decision on 22 March 2002, a new format for reports on bills had been adopted. He said that except for relatively straight-forward bills, such as the two Revenue Bills under consideration, a summary highlighting the main points of the report on the bill would also be provided. Miss Margaret NG welcomed the use of the new format for reports on legislation prepared for the House Committee.

9. The Legal Adviser said that the Revenue Bill 2002 sought to implement a proposal in the Budget by amending the Dutiable Commodities Ordinance to increase the rate of duty on wine from 60% to 80%. The Bill was set out in

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the Schedule to the Public Revenue Protection (Revenue) Order 2002 (L.N. 28 of 2002) which had already come into force at 2:30 pm on 6 March 2002.

10. As regards the Revenue (No. 2) Bill 2002, the Legal Adviser explained that the Bill sought to implement another proposal in the Budget to reduce the quantities of alcoholic liquor and tobacco exempted from duty.

11. Mr HUI Cheung-ching said that he had received a submission objecting to the increase in duty rate on wine from 60% to 80%. He suggested that a Bills Committee be formed to study the Revenue Bill 2002.

12. Mr Tommy CHEUNG said that the catering, retail and tourism industries also objected to the proposed increase in the rate of duty on wine. He expressed support for Mr HUI's suggestion of setting up a Bills Committee to study the Revenue Bill 2002. The Chairman said that some Members had also raised concerns about the Revenue (No. 2) Bill 2002, and suggested a Bills Committee be formed to scrutinize the Bill.

13. The Chairman further said that in his letter dated 25 April 2002, the Director of Administration (D of Adm) had requested that the two Bills be referred to one Bills Committee, if Members considered that both Bills required scrutiny. D of Adm had also requested priority be given to the scrutiny of two Bills. Members agreed to the requests.

14. The Chairman proposed that a Bills Committee be formed to study the two Bills. The following Members agreed to join : Miss Margaret NG, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr SIN Chung-kai, Mr Andrew WONG, Mr Howard YOUNG and Mr Tommy CHEUNG.

15. The Chairman added that as there was a vacant slot, the Bills Committee on the Revenue Bill 2002 and Revenue (No. 2) Bill 2002 could commence work immediately.

(iii) Marine Fish Culture (Amendment) Bill 2002
(*LC Paper No. LS 71/01-02*)

16. The Legal Adviser said that the Bill sought to amend the Marine Fish Culture Ordinance (the Ordinance) to empower the Director of Agriculture, Fisheries and Conservation to approve transfer of fish culture licences and to make the enforcement of the Ordinance more effective. The Legal Adviser further said that the Bill also proposed a number of procedural safeguards to improve the exercise of the existing power of search and seizure, the power of disposal of seized property, and the power of arrest provided under the Ordinance.

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17. The Legal Adviser pointed out that the Bill also proposed a new enforcement power as detailed in paragraph 8 of the report, and increases in the existing levels of penalty for offences under the Ordinance.

18. The Legal Adviser further said that in response to queries raised by the Legal Service Division, the Administration had agreed to introduce Committee Stage amendments (CSAs) to improve the drafting of the Bill. The Legal Service Division would provide a further report on the Bill after receiving the proposed CSAs from the Administration.

19. Mr WONG Yung-kan said that the Aquaculture Subcommittee of the Advisory Committee on Agriculture and Fisheries had requested, for some years, that transfer of fish culture licences be allowed. He further said that he had consulted the industry, and it did not raise objection to the proposed legislative amendments.

20. Miss Margaret NG asked whether the Administration had provided justification for the substantial increase in the existing levels of penalty for offences under the Ordinance.

21. The Legal Adviser said that it appeared that the proposal was to update the penalty provisions in the light of inflation so as to maintain the deterrent effect of the Ordinance. As regards the introduction of a new offence for failure to produce proof of identity, the Legal Adviser said that there were similar provisions in other ordinances.

22. Mr Andrew WONG said that he did not object to the proposal to allow transfer of fish culture licences. He pointed out, however, that transfer of licences could be very profitable. He expressed concern about the possible monopoly of the industry by a few individuals, and asked whether there was any restriction on the number of licences that a person could possess. The Chairman suggested that the Legal Service Division should seek clarification from the Administration on Mr WONG's query, and incorporate its response in the further report to be provided to the House Committee.

23. In response to Mr SIN Chung-kai, the Chairman said that the Panel on Food Safety and Environmental Hygiene was consulted on the legislative proposal on 25 February 2002, and had expressed support for the policy of allowing transfer of marine fish culture licences. She added that the other amendments in the Bill had not been discussed by the Panel as the text was not provided.

24. The Chairman proposed that a decision on the Bill be deferred, pending a further report from the Legal Service Division. Members agreed.

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(iv) United Nations (Anti-Terrorism Measures) Bill
(LC Paper No. LS 80/01-02)

25. The Legal Adviser explained that the Bill sought to implement certain mandatory elements of the United Nations Security Council Resolution 1373 relating to measures for the prevention of terrorism, and three recommendations of the Financial Action Task Force on Money Laundering.

26. The Legal Adviser said that the Bill dealt with the important subject of combating terrorism. The Legal Adviser further said that when the Panel on Security was consulted on the proposal, some members had expressed concern whether the legislative proposals were consistent with the Hong Kong Bill of Rights Ordinance and various international covenants on human rights. The Legal Adviser suggested that a Bills Committee be formed to study the Bill in detail. Miss Margaret NG expressed support.

27. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Ms Cyd HO, Miss Margaret NG, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Andrew WONG, Dr YEUNG Sum, Mr IP Kwok-him and Ms Audrey EU.

28. The Chairman referred Members to D of Adm's letter dated 25 April requesting that second priority be given to the scrutiny of this Bill. Members agreed to the request. The Chairman said that the Bills Committee on the United Nations (Anti-Terrorism Measures) Bill would be placed at the top of the waiting list.

(v) Occupational Deafness (Compensation) (Amendment) Bill 2002
(LC Paper No. LS 72/01-02)

29. The Legal Adviser said that the Bill sought to amend the Occupational Deafness (Compensation) Ordinance to increase levels of compensation and other benefits for claimants suffering from occupational deafness.

30. The Legal Adviser further said that the Legal Service Division was still scrutinizing the legal and drafting aspects of the Bill.

31. The Legal Adviser pointed out that as views were likely to differ on the adequacy of the proposed improvements, Members might wish to form a Bills Committee to study the Bill in detail.

32. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr LEE Cheuk-yan, Miss Margaret NG, Mrs Sophie LEUNG (as advised by the Chairman), Mr YEUNG Yiu-chung, Mr Andrew CHENG, Dr LO Wing-lok and Ms Audrey EU.

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

(vi) Mandatory Provident Fund Schemes (Amendment) Bill 2002
(*LC Paper No. LS 83/01-02*)

34. The Legal Adviser explained that the Bill sought, among other things, to revise the minimum level of relevant income for Mandatory Provident Fund ("MPF") contributions from \$4,000 to \$5,000 per month, and to introduce a mechanism for future reviews of the minimum and maximum levels of relevant income for MPF contributions.

35. The Legal Adviser said that the Legal Service Division was still scrutinizing the legal and drafting aspects of the Bill. The Legal Adviser further said that in view of the broad range of interests affected, Members might wish to form a Bills Committee to study the Bill in detail.

36. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr James TIEN (as advised by Ms Miriam LAU), Mr LEE Cheuk-yan, Miss CHAN Yuen-han, Mr Bernard CHAN, Dr YEUNG Sum, Mr YEUNG Yiu-chung and Mr Andrew CHENG.

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

(vii) Land (Miscellaneous Provisions) (Amendment) Bill 2002
(*LC Paper No. LS 84/01-02*)

38. The Legal Adviser said that the Bill sought to improve the regulation of excavation in unleased land. The Public Accounts Committee had been following this subject for some years. The Panel on Planning, Lands and Works had taken an interest in the issues and was consulted by the Administration recently. As the Bill included some controversial issues, he recommended that a Bills Committee be set up to examine the proposals in detail.

39. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Ir Dr Raymond HO, Mr Eric LI, Mr Fred LI, Ms Miriam LAU, Dr TANG Siu-tong, Mr IP Kwok-him, Mr LAU Ping-cheung and Ms Audrey EU.

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

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(b) Legal Service Division report on subsidiary legislation gazetted on 12 April 2002

(LC Paper No. LS 82/01-02)

41. The Legal Adviser said that only one item of subsidiary legislation, the Hong Kong Airport (Control of Obstructions) (Exemption) (Amendment) Order 2002, was gazetted on 12 April 2002. The Legal Adviser advised that the Order amended the Hong Kong Airport (Control of Obstructions) (Exemption) Order (Cap. 301 sub. leg.) to add two portions of land that were exempt from the operation of the Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997. The Order also specified the new height restrictions of the buildings which might be erected on the two exempted areas.

42. Members did not raise any query on this item of subsidiary legislation.

43. The Chairman reminded Members that the deadline for amending this item of subsidiary legislation was 15 May 2002, or 22 May 2002 if extended by resolution.

(c) Legal Service Division report on subsidiary legislation gazetted on 19 April 2002

(LC Paper No. LS 85/01-02)

44. The Legal Adviser said that a total of four items of subsidiary legislation were gazetted on 19 April 2002. The Legal Adviser explained that the Prevention of Copyright Piracy Ordinance (Amendment of Schedule 1) Order 2002 sought to amend Schedule 1 to the Prevention of Copyright Piracy Ordinance (Cap. 544) by adding "Stamper" (used as a master disc) to the list of "Optical discs". The addition meant that manufacturers of stampers would be required to obtain a licence as from 19 July 2002, subject to the same licensing control as was imposed on the manufacture of other optical discs.

45. As regards the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570) (Commencement) Notice 2002 and the Fixed Penalty (Public Cleanliness Offences) Regulation (L.N. 44 of 2002) (Commencement) Notice 2002, the Legal Adviser said that the Secretary for the Environment and Food had appointed 27 May 2002 as the day on which the two items of subsidiary legislation would come into operation.

46. Referring to the Matrimonial Causes (Amendment) Rules 2002 (L.N. 26 of 2002) (Commencement) Notice 2002, the Legal Adviser said that the Secretary for the Home Affairs had appointed 26 April 2002 as the day on which the Matrimonial Causes (Amendment) Rules 2002 (L.N. 26 of 2002) (the Rules) would come into operation. The Rules made it clear that the District Court Registrar had the requisite jurisdiction to tax bills of costs in

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matrimonial proceedings, and also introduced some other technical amendments to tidy up the Matrimonial Causes Rules.

47. Members did not raise any query on these items of subsidiary legislation.

48. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 22 May 2002, or 29 May 2002 if extended by resolution.

IV. Business for the Council meeting of 8 May 2002

(a) Questions

(LC Paper No. CB(3) 565/01-02)

49. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 8 May 2002.

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

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

(c) Government motions

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

(d) Members' motions

(i) Motion on "Developing eco-tourism"

(Wording of the motion issued vide LC Paper No. CB(3) 570/01-02 dated 24 April 2002.)

52. The Chairman said that the above motion would be moved by Mr WONG Yung-kan and the wording of the motion had been issued to Members.

(ii) Motion on "Civil Justice Reform"

(Wording of the motion issued vide LC Paper No. CB(3) 568/01-02 dated 23 April 2002.)

53. The Chairman said that the above motion would be moved by Miss Margaret NG and the wording of the motion had been issued to Members.

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54. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was, Tuesday, 30 April 2002.

V. Advance information on business for the Council meeting of 15 May 2002

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

Adaptation of Laws (Miscellaneous Provisions) Bill 2002

55. The Chairman said that the Bill would be introduced into the Council on 15 May 2002 and considered by the House Committee on 17 May 2002.

(b) Government motion

Proposed resolution to be moved by the Secretary for Security under the Immigration Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 571/01-02 dated 24 April 2002.)

56. The Chairman said that the Legal Service Division would provide a report at the next House Committee meeting on 3 May 2002.

VI. Report of Bills Committee and subcommittee on subsidiary legislation

(a) Position report on Bills Committees/subcommittees
(LC Paper No. CB(2) 1688/01-02)

57. The Chairman said that there were 15 Bills Committees, including the Bills Committee formed under agenda item III(a)(i) and (ii) above, and five Subcommittees in action. The Chairman added that there were 14 Bills Committees, including four Bills Committees formed under agenda item III(a)(iv), (v), (vi) and (vii) above, on the waiting list.

(b) Report of the Bills Committee on Hong Kong Court of Final Appeal (Amendment) Bill 2001

(LC Paper No. CB(2) 1705/01-02)

58. Miss Margaret NG, Chairman of the Bills Committee, explained that the Bill provided for an appeal mechanism, commonly known as "leapfrog appeal", whereby civil appeals might be brought directly from the Court of First Instance to the Hong Kong Court of Final Appeal. Miss NG said that the leapfrog procedure would only apply to cases which had good and sound

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reasons to bypass the Court of Appeal with a view to expediting the litigation process. In considering an application for leapfrog, the judge must be satisfied that the point of law in the case was of great general or public importance. Miss NG added that the exceptional "Basic Law" route for leapfrogging would be confined to cases where the point of law related wholly or mainly to the construction of the Basic Law.

59. Miss Margaret NG informed Members that the legal profession was in general support of the legislative proposal.

60. Miss Margaret NG said that the Administration had agreed to move CSAs to address the concerns raised by members. Miss NG further said that the Bills Committee supported the resumption of the Second Reading debate on the Bill, and the CSAs to be moved by the Administration.

61. Members raised no objection to the resumption of the Second Reading debate on the Bill.

(c) **Report of the Subcommittee on the Resolution of the Board of Directors of the Po Leung Kuk**
(LC Paper No. CB(2) 1693/01-02)

62. Miss Margaret NG, Chairman of the Subcommittee, reported that the Subcommittee had held one meeting to discuss with the Administration and the Po Leung Kuk. Miss NG informed Members that the Administration had clarified that -

- (a) where funds were raised by the Po Leung Kuk for charitable work outside Hong Kong, people donating money would be clearly informed of the purpose of the fund-raising activity beforehand; and
- (b) the existing funds of the Po Leung Kuk would not be used to finance charitable work outside Hong Kong unless explicit permission had been given by the people who donated the money in the first place.

63. Miss NG further informed Members that the Subcommittee did not raise objection to the Resolution and had not proposed any amendment.

64. Mr Andrew WONG sought clarification on whether the Po Leung Kuk had confirmed that existing funds would not be used to finance future charitable work outside Hong Kong. Mr HUI Cheung-ching said that he was

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a member of the Po Leung Kuk Advisory Board. He said that the Po Leung Kuk had confirmed in a letter to the Subcommittee that donations made to the Po Leung Kuk before the passing of the Resolution would not be used to finance future charitable work outside Hong Kong. Mr HUI added that the letter was attached to the report of the Subcommittee.

VII. Any other business

65. There being no further business, the meeting ended at 4:32 pm.

Council Business Division 2
Legislative Council Secretariat
2 May 2002