

立法會
Legislative Council

LC Paper No. CB(2) 1912/01-02

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 22nd meeting
held in the Legislative Council Chamber
at 4:32 pm on Friday, 10 May 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
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 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 LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon LAU Chin-shek, JP
Hon LAU Kong-wah
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 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
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 :

Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon Jasper TSANG Yok-sing, JP
Hon LAU Wong-fat, GBS, JP
Hon Miriam LAU Kin-yee, 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
Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
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
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1

Action

I. Confirmation of minutes of meetings

- (a) **Special meeting held on 19 April 2002**
(LC Paper No. CB(2) 1825/01-02)
- (b) **21st meeting held on 3 May 2002**
(LC Paper No. CB(2) 1832/01-02)

The two sets of minutes were confirmed.

II. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 3 May 2002

(LC Paper No. LS 91/01-02)

2. The Legal Adviser said that there were three items of subsidiary legislation gazetted on 3 May 2002. He explained that the Civil Aviation (Aircraft Noise) Ordinance (Amendment of Schedule) Notice 2002 sought to implement in Hong Kong the resolution adopted by the International Civil Aviation Organization in October 1990 to phase out Chapter 2 aircraft over a period of not less than seven years starting from 1 April 1995. The Notice was to prohibit, with effect from 1 July 2002, wide-bodied subsonic jet aircraft which only met the Chapter 2 noise standards from landing or taking-off in Hong Kong. He added that the legal and drafting aspects of the Notice were in order.

3. The Legal Adviser further explained that the Statutes of the University of Hong Kong (Amendment) Statute 2002 amended the Statutes of the University of Hong Kong in the Schedule to the University of Hong Kong

Action

Ordinance (Cap. 1053) to allow the University to confer or award certain types of degrees and academic distinctions.

Action

4. As regards the Tax Reserve Certificates (Rate of Interest) (No. 5) Notice 2002, the Legal Adviser advised that it fixed the rate of interest payable on tax reserve certificates issued on or after 6 May 2002 at 0.5812% per annum.

5. Members did not raise any query on the three items of subsidiary legislation.

6. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 5 June 2002, or 26 June 2002 if extended by resolution.

III. Further report by the Legal Service Division on outstanding bills

Marine Fish Culture (Amendment) Bill 2002

(LC Paper No. LS 92/01-02)

7. The Chairman said that the House Committee considered the Bill at its meeting on 26 April 2002 and decided to defer a decision on the Bill pending a further report from the Legal Service Division. A further report was now provided for the House Committee.

8. The Legal Adviser recapitulated that the Bill sought to empower the Director of Agriculture, Fisheries and Conservation (DAFC) to approve transfer of marine fish culture licences. He said that the Administration had provided a response to Members' concerns raised at the House Committee meeting on 26 April 2002. The Administration had advised that it was the existing policy not to restrict any mariculturists to operate one single fish culture farm only, and the Administration did not intend to add additional restrictions on the holding of fish culture licence in the current legislative amendment exercise. The Administration had also pointed out that under the Bill, DAFC might refuse to approve the transfer of a fish culture licence if he considered that the transfer would not be in the best interests of the industry.

9. The Legal Adviser further said that the Administration had explained that the proposed increase in the levels of fine mainly reflected the inflationary adjustment based on the movements of the Consumer Price Index (A) since 1980 and 1981 when the Ordinance and the Marine Fish Culture Regulations were enacted respectively.

10. The Legal Adviser informed Members that the Administration had proposed Committee Stage amendments (CSAs) to improve the drafting of the Bill, and the legal and drafting aspects of the Bill and the CSAs were in order. He added that subject to Members' views, the Bill was ready for resumption of Second Reading debate.

Action

11. Members did not raise objection to the resumption of the Second Reading debate on the Bill.

IV. Further business for the Council meeting on 15 May 2002

Questions

(LC Paper No. CB(3) 598/01-02)

12. The Chairman drew Members' attention to the new oral question to be raised by Mr WONG Sing-chi.

V. Business for the Council meeting on 22 May 2002

(a) Questions

(LC Paper No. CB(3) 599/01-02)

13. The Chairman said that twenty questions (six oral and 14 written) had been scheduled for the Council meeting on 22 May 2002.

(b) Bills - First and Second Readings

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

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

Hong Kong Court of Final Appeal (Amendment) Bill 2001

15. The Chairman said that the Bills Committee had provided a report to the House Committee on 26 April 2002, and Members had not raised objection to the resumption of the Second Reading debate on the Bill.

(d) Government motion

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

(e) Members' motions

(i) Motion on "Report on Higher Education in Hong Kong"

(Wording of the motion issued vide LC Paper No. CB(3) 601/01-02 dated 8 May 2002.)

Action

17. The Chairman said that the motion would be moved by Mr YEUNG Yiu-chung and the wording of the motion had been issued to Members.

- (ii) **Motion on "Review of civil service pay policy and system"**
(Wording of the motion issued vide LC Paper No. CB(3) 602/01-02 dated 8 May 2002.)

18. The Chairman said that the motion would be moved by Dr LO Wing-lok and the wording of the motion had been issued to Members.

19. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Tuesday, 14 May 2002.

VI. Report of Bills Committee and subcommittee on subsidiary legislation

- (a) **Position report on Bills Committees/subcommittees**
(LC Paper No. CB(2) 1838/01-02)

20. The Chairman said that there were 14 Bills Committees and five Subcommittees in action as well as 14 Bills Committees on the waiting list.

- (b) **Report of the Bills Committee on Gambling (Amendment) Bill 2000**
(LC Paper No. CB(2) 1835/01-02)

21. Referring to the report, Mr Andrew CHENG Kar-foo, Chairman of the Bills Committee, said that the Bills Committee had held 18 meetings to examine the Bill. He explained that the Bill sought to combat unauthorised cross-border gambling by inserting an extraterritorial element into the offences of "bookmaking" and "betting with a bookmaker", under sections 7 and 8 of the Gambling Ordinance, to make it explicit that both unauthorised bookmaking would be illegal even when the bet was received outside Hong Kong, as long as the person who placed the bet was in Hong Kong, and that it would be an offence for people in Hong Kong to bet with an offshore bookmaker.

22. Mr Andrew CHENG said that members of the Bills Committee had divergent views about the Administration's proposal to insert an extraterritorial element into the offences of "bookmaking" and "betting with a bookmaker". Some members, including Mr Andrew WONG and Ms Audrey EU, objected to the proposal as they considered that it would expand the scope of the Gambling Ordinance and increase the powers of the Police, and also represented a change of the existing policy.

Action

23. Referring to paragraphs 38 to 45 of the report, Mr Andrew CHENG said that the Bills Committee had asked the Administration to explain how the enactment of the Bill would achieve the intended purpose of combating gambling activities via the Internet. Some members had expressed concern that there would be difficulties in enforcement, particularly for the Police to seek cooperation and assistance from overseas jurisdictions in the collection of evidence, if the offshore bookmaker was a licensed one in its own country. The Administration had responded that despite the limitations of the Bill, enactment of the Bill would render cross-border gambling less convenient and less attractive. It would also make it more difficult for offshore bookmakers to entice bets from Hong Kong people, as promoting and facilitating bookmaking would also be prohibited.

24. Mr Andrew CHENG said that members had criticised the drafting of the proposed new offences in clause 8 of the Bill relating to keeping premises for betting, restriction on broadcasting, and promoting and facilitating bookmaking. Mr CHENG pointed out that the Bills Committee had waited for a long time for the Administration to respond to members' comments on the drafting and put forward the amendments. Mr CHENG informed Members that the Administration had now agreed to create a revised new section 16A by combining the proposed new sections 16A and 16B in the Bill to improve the drafting of the provisions regarding keeping of premises for illegal betting.

25. Mr Andrew CHENG further explained that new section 16C prohibited owners, tenants, etc. from knowingly permitting or suffering their premises to be used as premises where unlawful gambling was promoted or facilitated. As regards new section 16D, it sought to prohibit the broadcast of any forecast, hint, odds or tip in relation to any unauthorised horse or dog racing event via television or radio within the 12-hour period preceding the conduct of that event. Mr CHENG pointed out that a number of deputations had expressed concern about the strict liability offence created in this section. Mr CHENG added that some members had also expressed concern about the new offence of “promoting or facilitating bookmaking” created under new section 16E.

26. Regarding the reinstatement of the concept of “aiding, abetting, procuring or counselling” in the Ordinance, Mr Andrew CHENG said that the phrase “assist in the operation, management or to the control of any premises” or “assisting in the operation or in the management of other control” in the revised new section 16A, existing section 23, and new section 23A was inconsistent with the deletion of section 5(c) proposed in clause 3 of the Bill. The Administration had accepted the view of the Bills Committee and would move CSAs to the relevant provisions.

Action

27. As regards the date of commencement of the Bill, Mr Andrew CHENG informed Members that the Administration hoped that the Bill would be enacted before the 2002 World Cup Finals which were scheduled to start on 31 May 2002. The Administration therefore proposed to delete clause 1(2) from the Bill so that the Amendment Ordinance would come into operation on the day on which the Ordinance was gazetted, instead of through a commencement notice to be made by the Secretary for Home Affairs.

28. Mr Andrew CHENG said that the Administration had agreed to provide to the Panel on Security annual statistics on court warrants issued in relation to enforcement against gambling offences, after the Bill had come into effect. The Secretary for Home Affairs would also give an undertaking in his speech to be delivered at the resumption of the Second Reading debate on the Bill that in the process of enforcement actions against Internet gambling, the Administration would endeavour to strike a balance between the protection of the privacy rights of an individual and the policy to combat cross-border gambling.

29. Mr Andrew CHENG further said that the Bills Committee recommended that subject to the CSAs to be moved by the Administration, the Second Reading debate on the Bill be resumed on 22 May 2002. Mr CHENG added that the Bills Committee had not proposed any CSAs, but Ms Cyd HO had indicated her intention to move CSAs to the Bill.

30. Ms Cyd HO said that under section 8 of the Ordinance, there were three levels of maximum penalty for any person who bet with a bookmaker on the first, second and subsequent occasions. Ms HO informed Members that she had given notice to move a CSA to delete the imprisonment terms from the three levels of maximum penalty.

31. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 22 May 2002.

32. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 11 May 2002.

33. Assistant Secretary General 3 requested Members to inform him as early as possible if there was any particular clause (or part of a clause) or CSA they would like to put to separate voting during the Committee Stage at the Council meeting on 22 May 2002.

34. The Chairman advised that as there was a vacant slot, the Bills Committee on United Nations (Anti-Terrorism Measures) Bill could commence work.

VII. Paper of the Committee on Members' Interests on "Maintaining the Register of Members' Interests in both English and Chinese"
(LC Paper No. CMI/19/01-02)

35. Mr SIN Chung-kai, Deputy Chairman of the Committee on Members' Interests (CMI), said that CMI met on 25 April 2002 to discuss a proposal from a member of the public that the Register of Members' Interests should be made available for public inspection in both Chinese and English. CMI considered that Members should have commitments to furnish details of their interests and the legislature should maintain a high degree of transparency. To facilitate public inspection of the particulars of Members' interests, and given that the majority of Council papers were issued in both Chinese and English, CMI decided that the Register should be maintained in both Chinese and English.

36. Mr SIN Chung-kai further said that CMI accepted the recommendation of the Secretariat that where Members' registrable interests were furnished in either Chinese or English, the Secretariat would provide the translated version. However, to avoid inaccuracy, some terms such as the names of persons, office titles and company names would not be translated, unless Members had provided such terms in both Chinese and English. The translated version would be sent to Members for vetting before being incorporated into the Register.

37. The Chairman pointed out that it was up to the Member concerned to decide which language he/she wanted to use in making a declaration of his/her registrable interests. The Chairman added that she had heard comments from some Members that there might be technical difficulties in providing full and accurate translation of the contents of such declarations.

38. Mr James TIEN said that he was concerned whether the translated version of Members' declarations would give rise to misunderstanding. However, as the CMI had recommended in paragraph 7 of the paper that some terms or proper nouns such as the names of persons, office titles and company names would not be translated, unless the Members concerned provided such terms in both languages, he considered the proposed arrangement acceptable.

39. Miss Margaret NG said that she also considered the proposed arrangement acceptable as the translated version would be marked as such and readers would be referred to the original version for authenticity.

40. In response to Mr SIN Chung-kai's question on whether there were any language requirement in Rule 83 of the Rules of Procedure, the Legal Adviser explained that the Rules of Procedure did not stipulate the language to be used by Members in furnishing particulars of their registrable interests, and Members could choose to register in either English or Chinese.

Action

41. Members noted CMI's decision as detailed in paragraph 8 of the paper.

VIII. Any other business

42. There being no further business, the meeting ended at 4:55 pm.

Council Business Division 2
Legislative Council Secretariat
15 May 2002