

立法會
Legislative Council

LC Paper No. CB(2) 2176/01-02

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 25th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 31 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
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
Dr Hon David LI Kwok-po, GBS, 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 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 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 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 WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent :

Hon Albert HO Chun-yan
Hon Eric LI Ka-cheung, JP
Hon CHAN Yuen-han, JP
Hon WONG Yung-kan
Hon LAU Chin-shek, JP
Hon LAU Wong-fat, GBS, JP
Hon Miriam LAU Kin-yee, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon MA Fung-kwok

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 Kitty CHENG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
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 24th meeting held on 24 May 2002
(*LC Paper No. CB(2) 2080/01-02*)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that she had informed CS that Members had not raised objection to the Secretary for Education and Manpower moving a motion to seek the Council's approval for the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) (Amendment) Regulation 2001 on 5 June 2002.

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) Evidence (Miscellaneous Amendments) Bill 2002
(*LC Paper No. LS 99/01-02*)

3. The Legal Adviser explained that the Bill sought to implement the recommendations made by the Law Reform Commission (LRC) in its "Report on Competence and Compellability of Spouses in Criminal Proceedings"

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(1988), and also provide for the giving of evidence by way of a live television link in criminal proceedings.

4. With regard to the implementation of the LRC recommendations, the Legal Adviser said that the Law Society of Hong Kong, JUSTICE and some other organisations had expressed concerns. The Legal Adviser further said that when the Panel on Administration of Justice and Legal Services (AJLS Panel) was consulted on the proposals, the Chairman of the Panel had suggested that the Bill should be scrutinised in detail by a Bills Committee.

5. The Legal Adviser said that in view of the importance of the proposals from a criminal procedural point of view and the concerns expressed, it was recommended that a Bills Committee be formed to study the Bill in detail.

6. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Miss Margaret NG, Mr Andrew WONG, Mr TSANG Yok-sing (as advised by Mr IP Kwok-him), Ms Miriam LAU (as advised by Mr James TIEN) 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) CITIC Ka Wah Bank (Limited) Merger Bill
(*LC Paper No. LS 107/01-02*)

8. The Legal Adviser said that the Bill was a Member's Bill introduced by Dr David LI Kwok-po with the consent of the Chief Executive. The Legal Adviser further said that the Bill sought to provide for the vesting in The Hong Kong Chinese Bank, Limited (HKCB) of part of the business of CITIC Ka Wah Bank Limited (CKWB) and for other related purposes.

9. Mr SIN Chung-kai said that Members might wish to study the Bill as it differed from the recently enacted bank merger ordinances in some aspects.

10. The Legal Adviser responded that the main differences were explained in paragraph 10 of the report. Briefly they were -

- (a) it was the parent company which transferred part of its business to the subsidiary;
- (b) only the banking business and related property of CKWB were to be transferred to HKCB; and
- (c) after the merger, the parent company would continue to exist.

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11. The Legal Adviser said that the policy aspects of the Bill had been discussed by the Panel on Financial Affairs (FA Panel) at its meeting on 9 April 2002. A member of the Panel had raised concern that contracts or other documents of CKWB not governed by the laws of Hong Kong might prohibit CKWB from transferring its business to HKCB. The Legal Adviser advised that according to the Administration, CKWB would be required, as a precondition to the revocation of its banking licence under the Banking Ordinance, to satisfy the Hong Kong Monetary Authority (HKMA) that all non-Hong Kong law governed, banking related properties and liabilities were adequately and satisfactorily transferred on a case by a case basis by HKCB. Due diligence would be carried out by the solicitors for CKWB and the appointed day would not be designated until the process had completed.

12. The Legal Adviser further said that the Administration had also confirmed that prior approval of the HKMA of the appointed day must be sought, and it was the general policy for revocation of the transferring bank's banking licence to occur at the same time as the merger of its banking business. A copy of the Administration's letter was attached to the report.

13. The Legal Adviser added that the legal and drafting aspects of the Bill were in order.

14. The Chairman proposed that a decision on the Bill be deferred to the next House Committee meeting to allow more time for Members to study the clarifications provided in the report of the issues raised at the FA Panel meeting on 9 April 2002. Members agreed.

(b) Legal Service Division report on subsidiary legislation gazetted on 24 May 2002

(LC Paper No. LS 105/01-02)

15. The Legal Adviser said that only one item of subsidiary legislation, the Banking (Amendment) Ordinance 2001 (32 of 2001) (Commencement) Notice 2002, was gazetted on 24 May 2002. The Legal Adviser further said that the Amendment Ordinance was enacted on 19 December 2001 after the Bill had been scrutinised by a Bills Committee.

16. The Legal Adviser added that the legal and drafting aspects of the Commencement Notice were in order.

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

18. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 26 June 2002, or the first meeting of the Legislative Council (LegCo) in the next session if extended by resolution.

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IV. Further business for the Council meeting on 5 June 2002

(a) Questions

(LC Paper No. CB(3) 658/01-02)

19. The Chairman drew Members' attention that Mr Michael MAK Kwok-fung had revised his oral question and two new written questions would be raised by Mr Fred LI and Mr SIN Chung-kai. The Chairman also informed Members that Mr Abraham SHEK had withdrawn his oral question scheduled for the Council meeting on 5 June 2002.

(b) Bills - First and Second Readings

Public Officers Pay Adjustment Bill

20. The Chairman said that the Bill would be introduced into the Council on 5 June 2002 and considered by the House Committee on 7 June 2002.

V. Business for the Council meeting on 12 June 2002

(a) Questions

(LC Paper No. CB(3) 659/01-02)

21. The Chairman said that 14 questions (six oral and eight written) had tentatively been scheduled for the Council meeting on 12 June 2002.

(b) Bills - First and Second Readings

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

(c) Government motion

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

(d) Members' motions

(i) Motion on "Associate degree"

(Wording of the motion issued vide LC Paper No. CB(3) 669/01-02 dated 30 May 2002.)

24. The Chairman said that the above motion would be moved by Ir Dr Raymond HO and the wording of the motion had been issued to Members.

(ii) Motion on "Population policy"

(Wording of the motion issued vide LC Paper No. CB(3) 667/01-02 dated 30 May 2002.)

25. The Chairman said that the above motion would be moved by Mr James TIEN and the wording of the motion had been issued to Members.

26. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 5 June 2002.

VI. Advance information on business for the Council meeting on 19 June 2002

Government motion

27. The Chairman said that the Administration had formally informed the Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues that the Administration would give notice on 3 June 2002 to move a resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Council meeting on 19 June 2002.

28. The Chairman further said that the speaking time limit of 15 minutes for each Member would apply.

29. Ms Emily LAU said that as the debate on the resolution would likely be long, the House Committee might wish to recommend to the President as to whether the Council meeting should resume at 9:00 am or 2:30 pm on 20 June 2002, if the business to be transacted could not be finished on 19 June 2002.

30. The Chairman said that she had consulted the President. The President had responded that she would inform Members of the arrangement not later than 7 June 2002 when the Administration would have formally given notice of the resolution, and there would be clearer indication of whether there would be amendments to the resolution. The Chairman added that committees should avoid scheduling meetings for 20 June 2002.

VII. Report of Bills Committee and subcommittee

(a) Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 2099/01-02)

31. The Chairman said that there were 15 Bills Committees and five Subcommittees in action as well as 13 Bills Committees on the waiting list.

(b) Fifth Report of the Subcommittee on Members' Remuneration and Operating Expenses Reimbursement

(LC Paper No. AS 250/01-02)

32. Mr NG Leung-sing, Chairman of the Subcommittee, said that the accountable office operating expenses reimbursement (OOER) for Members was increased with effect from October 2001. The need for enlarged central offices as a result of a greater number of assistants employed by Members was raised at the meeting of The Legislative Council Commission on 19 February 2002, and the Commission had referred the issue to the Subcommittee for consideration.

33. Mr NG Leung-sing informed Members that the Subcommittee conducted a survey in March 2002 to seek Members' views on the space requirement. The Subcommittee had noted that after the increase of the OOER, 24 Members had each employed one to three additional staff, and that Members' offices were congested.

34. Mr NG Leung-sing said that based on the findings of the survey, the Subcommittee recommended that a larger central office of 50m² should be provided for Members in the Central Government Offices (West Wing) and Citibank Tower, as an interim measure to cope with the congested office accommodation in Members' central offices, pending the availability of the new Legislative Council Building by the end of 2007.

35. The Chairman said that paragraph 7 of the paper also recommended that the Commission should request the Administration to consider the proposal in conjunction with the Commission's earlier proposal for additional office space.

36. Members endorsed the Subcommittee's recommendations in paragraph 7 of the paper.

VIII. Report on the Legislative Council Delegation's Visit to Canada

(LC Paper No. CB(3) 643/01-02)

37. Dr LUI Ming-wah, leader of the delegation, said that the delegation considered the visit very successful in reinforcing links with Canada, and fostering better mutual understanding between Canada and Hong Kong. Dr LUI added that a set of the papers and materials presented to the delegation was placed in the Library of the LegCo Secretariat for Members' reference.

IX. Report of the Panel on Home Affairs concerning allocation of a slot for a motion debate in Council on the Report of the Sports Policy Review Team (LC Paper No. CB(2) 2087/01-02)

38. Mr IP Kwok-him, Chairman of the Panel on Home Affairs (HA Panel), said that the Administration briefed the Panel on the "Report of the Sports Policy Review Team" at its meeting on 23 May 2002. As the consultation period of the Report will end on 31 July 2002, the Panel had decided to hold a special meeting on 22 June 2002 to hear views from organisations concerned. The Panel had also suggested that he should move a motion on the Report for debate in the current session, in view of the importance of the subject matter.

39. Mr IP Kwok-him further said that the House Committee's agreement was sought for a slot to be allocated to him, in his capacity as Chairman of the HA Panel, to sponsor a motion debate on the "Report on the Sports Policy Review Team" at the Council meeting on 3 July 2002.

40. Dr YEUNG Sum said that at the meeting on 17 May 2002, the House Committee had agreed to the request of the Panel on Education that its Chairman, Mr YEUNG Yiu-chung, should sponsor a motion debate on "Report on Higher Education in Hong Kong" at the Council meeting on 26 June 2002. Dr YEUNG further said that although he supported the request of the HA Panel, the Committee on Rules of Procedure (CRoP) should consider whether a mechanism should be provided for Panel Chairmen to move motions for debate in Council on behalf of the relevant Panels.

41. The Chairman pointed out that in the case of the motion debate sponsored by Mr YEUNG Yiu-chung, he had in fact applied for and was allocated a debate slot for the Council meeting on 22 May 2002. As the consultation period of the "Report on Higher Education in Hong Kong" had been extended, the House Committee agreed to the request of the Panel on Education that the relevant motion debate be deferred to 26 June 2002, to allow time for the Panel to listen to more views on the Report before the debate. The Chairman added that the debate slot was counted as Mr YEUNG's own debate slot as an individual Member.

42. Miss Margaret NG expressed support for the request of the HA Panel and hoped that the case would become a precedent for Panel Chairmen to be allocated slots for sponsoring motion debates on behalf of the relevant Panels. She suggested that CRoP should study the matter and propose an appropriate mechanism or procedure. She added that she had moved a motion on "Civil Justice Reform" on behalf of the AJLS Panel for debate at the Council meeting on 8 May 2002.

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43. Ms Emily LAU said that she supported the Panel's request. However, she considered that if the motion was to be couched in neutral terms and no amendments were allowed, Members would not be able to fully debate the subject matter and make their position clear during the motion debate. She suggested that Members should be allowed to move amendments to the motion. She also sought clarification as to whether the motion to be moved by the Chairman of the HA Panel would be counted as a motion moved by Mr IP Kwok-him as an individual Member.

44. The Chairman said that under the existing practice, a Panel Chairman who wished to sponsor a motion debate on behalf of the relevant Panel was required to bid for a debate slot as any individual Member. In the present case, as Mr IP Kwok-him had previously been allocated a debate slot in the current session, his chance of successfully bidding another debate slot within this session was very slim.

45. The Chairman further pointed out that there were only precedents of the Chairman of the House Committee, and not a Panel Chairman, being allocated a debate slot without having to bid for a slot. She invited Members' views as to whether they supported the request of the HA Panel as an exceptional case. She added that it was also the established practice that motions on consultative documents moved by the Chairman of the House Committee, on behalf of Members, should be couched in neutral terms and there would be no amendments to such motions.

46. Mr Tommy CHEUNG said that he had reservations about the Panel's request, as the proposed motion to be moved by the Chairman of the HA Panel would take up one debate slot of the Council meeting on 3 July 2002. He asked whether the proposed motion debate could be deferred to the next session.

47. Mr IP Kwok-him said that it was the Panel's recommendation that he should sponsor a motion debate on the "Report on the Sports Policy Review Team" at the Council meeting on 3 July 2002. Referring to Ms Emily LAU's suggestion that Members be allowed to move amendments to the motion, Mr IP said that as the Panel had not made such a request, it would not be appropriate for him to vary the Panel's proposal.

48. Mr TSANG Yok-sing said that he supported the Panel's request. He also agreed that the motion should be couched in neutral terms so that Members could freely express their views on the subject matter. Mr TSANG further said that as Chairman of CROp, he agreed that CROp should consider whether a mechanism or procedure should be provided for Panel Chairmen to sponsor motion debates on behalf of the relevant Panels. He added that it seemed unfair to the Panel Chairman concerned if the debate slot had to be

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counted as the Member's own debate slot as an individual Member.

49. Mr IP Kwok-him said that just like Mr YEUNG Yiu-chung and Miss Margaret NG, he did not mind the slot to be counted as his own debate slot as an individual Member, if the House Committee agreed to allocate one for the debate on the "Report on the Sports Review Team".

50. Members agreed to the Panel's request in paragraph 4 of the paper. Members also agreed that the motion should be couched in neutral terms.

51. The Chairman proposed that CRoP should be invited to study whether a mechanism or procedure should be provided for Panel Chairmen to move motions for debate in Council, on behalf of the relevant Panels. Members agreed.

X. Proposed overseas duty visit to South Korea by the Panel on Information Technology and Broadcasting

(LC Paper No. CB(1) 1846/01-02)

52. Mr SIN Chung-kai, Chairman of the Panel on Information Technology and Broadcasting, said that the permission of the House Committee was sought under rule 22(t) of the House Rules, for the Panel to conduct a four-day duty visit to South Korea in the last week of September 2002.

53. Mr SIN further said that six Panel members had indicated interest to join the visit, and the expenditure for each participating Member would be charged to the allocation of \$61,000 for each Member to undertake overseas duty visits within a term.

54. Members endorsed the Panel's proposed duty visit to South Korea.

XI. Report of the Panel on Food Safety and Environmental Hygiene concerning the "Report of the investigation team for the 2002 avian influenza incident"

(Letter dated 28 May 2002 from Hon Fred LI, Chairman of the Panel, to the Chairman of the House Committee)

55. Referring to his letter to the Chairman of the House Committee, Mr Fred LI, Chairman of the Panel on Food Safety and Environmental Hygiene, said that the Investigation Team set up to investigate the recent avian influenza incident had submitted its report to the Environment and Food Bureau (EFB) on 18 May 2002, and a press conference was held on 24 May 2002. Mr LI further said that the Panel had, at its meetings on 18 March and 22 April 2002,

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requested EFB to provide the report of the Investigation Team, and had scheduled a meeting for 27 May 2002 to discuss the report. However, it was only after repeated requests by him and the Deputy Chairman of the Panel that EFB finally forwarded the executive summary of the report and one copy of the full report to the Panel after 3:00 pm on 24 May 2002.

56. Mr Fred LI said that the Panel was strongly dissatisfied that EFB had briefed the media on the report prior to briefing the Panel, and had failed to comply with the agreed deadline of providing papers five clear days before the relevant meeting.

57. Mr Fred LI said that the Panel requested the Chairman of House Committee to raise with CS that the Administration should brief the relevant Panel on any important matters before briefing the media.

58. Ms Emily LAU said that she agreed with Mr Fred LI that the Administration should brief Members on important matters at the earliest opportunity and before briefing the media. In her view, this was a constitutional convention that the Administration should respect and adhere to.

59. Miss CHOY So-yuk said that the Administration had sometimes failed to provide draft replies to oral questions raised by Members before the start of the relevant Council meetings. She suggested that the Chairman of the House Committee should also raise the matter with CS.

60. The Secretary General said that following the delay in providing the draft reply to the second oral question raised by Miss CHOY So-yuk at the Council meeting on 29 May 2002, he had followed up the matter with the Director of Administration (D of Adm). D of Adm had informed him that all bureau secretaries had been reminded of the need to observe closely the deadline for providing draft replies to oral questions.

61. The Chairman said that she would raise with CS that the Administration should brief the relevant Panels on important matters at the earliest opportunity and before briefing the media, and also strictly observe the deadline for providing draft replies to oral questions. Members agreed.

XII. Any other business

62. There being no further business, the meeting ended at 3:23 pm.

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Legislative Council Secretariat
5 June 2002