

立法會
Legislative Council

LC Paper No. CB(2) 1962/02-03

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 23rd meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 2 May 2003**

Members present :

Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, 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

Hon Albert HO Chun-yan

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 NG Leung-sing, JP

Hon Margaret NG

Hon CHEUNG Man-kwong

Hon HUI Cheung-ching, JP

Hon CHAN Kwok-keung

Hon CHAN Kam-lam, JP

Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP

Hon LEUNG Yiu-chung

Hon SIN Chung-kai

Hon Andrew WONG Wang-fat, JP

Hon WONG Yung-kan

Hon Jasper TSANG Yok-sing, GBS, 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

Hon Miriam LAU Kin-ye, JP
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 LI Fung-ying, JP
Hon Henry WU King-cheong, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon MA Fung-kwok, JP

Members absent :

Dr Hon David LI Kwok-po, GBS, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, JP
Dr Hon Philip WONG Yu-hong
Hon Abraham SHEK Lai-him, JP
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon Audrey EU Yuet-mee, SC, 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

Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Vivian KAM	Principal Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Miss Salumi CHAN	Chief Assistant Secretary (1)5
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Ms Bernice WONG	Assistant Legal Adviser 1
Miss Connie FUNG	Assistant Legal Adviser 3
Miss Monna LAI	Assistant Legal Adviser 7
Miss Betty MA	Senior Assistant Secretary (2)1

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I. Confirmation of the minutes of the 22nd meeting held on 25 April 2003
(*LC Paper No. CB(2) 1888/02-03*)

The minutes were confirmed.

II. Matters arising

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

Priority scrutiny of bills

2. The Chairman said that she had informed CS that his point regarding consultation between the Legislative Council (LegCo) and the Administration on priority scrutiny of bills had been conveyed to Members at the last meeting.

(b) Arrangement for the Council meeting of 7 May 2003

3. Ms Emily LAU said that the Secretariat had issued a circular informing Members that if the President was of the opinion that it was unlikely that the business on the Agenda of the Council meeting of 7 May 2003 could be finished by about midnight on that day, she would suspend the meeting at about 10:00 pm and order that the meeting resume on 8 May 2003 at 2:30 pm. Ms LAU further said that as the President had already decided on such an arrangement, it would not be possible for the meeting of 7 May 2003 to continue beyond midnight to finish all items of business on the Agenda. Ms LAU enquired whether the House Committee had been consulted, as she did

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not attend the last meeting. She pointed out that 8 May 2003 was a public holiday, and Members might already have other commitments scheduled for that day.

4. The Chairman said that the House Committee had not been consulted on the arrangement, but it was the existing practice that if the business of the Agenda of a Council meeting could not be finished by about midnight on the day of the meeting, the President would suspend the meeting at about 10:00 pm and order that the meeting resume the following day at 2:30 pm for the continuation of business.

5. The Secretary General said that the President had considered whether the Council meeting of 7 May 2003 could resume on Friday, 9 May 2003, but had decided against it as there were quite a number of meetings scheduled for that day, including a House Committee meeting.

6. Mr Martin LEE said that it was not appropriate to resume the Council meeting of 7 May 2003 on 8 May 2003 as it was a public holiday. Mr LEE suggested that if there was consensus among Members, the President could be invited to consider advancing the starting time of the Council meeting of 7 May 2003 to, say, 12:00 noon, so that all items of business on the Agenda could be dealt with on that day.

7. Mr IP Kwok-him said that he hoped that the business on the Agenda of the Council meeting of 7 May 2003 could be finished on that day as far as practicable.

8. Ms Emily LAU concurred with Mr Martin LEE and Mr IP Kwok-him. She added that Members would have to cancel their other commitments scheduled for 8 May 2003, if the Council meeting of 7 May 2003 might be resumed in the afternoon of 8 May 2003.

9. Ir Dr Raymond HO expressed agreement that the business on the Agenda of the Council meeting of 7 May 2003 should be dealt with on that day as far as practicable. Dr HO further said that although he had no strong view about advancing the starting time of the Council meeting to the morning of 7 May 2003, he wished to point out that there would be a meeting of the Public Works Subcommittee (PWSC) on 7 May 2003 at 10:45 am, and it would discuss several proposals, including the one on the Central Government Complex, Legislative Council Complex, exhibition gallery and civic place at Tamar, Central. He added that if Members were willing to cooperate to enable the meeting to finish early, the Council meeting could start at, say, 12:00 noon.

10. The Chairman said that Members' views would be conveyed to the

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President for her consideration, and Members would be informed of the President's views on the matter as early as possible.

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) Buildings (Amendment) Bill 2003
(LC Paper No. LS 103/02-03)

11. The Legal Adviser explained that the Bill aimed to rationalise the building control regime, strengthen safety requirements, facilitate law enforcement and improve service to the public. He further explained that the Bill also enabled a new category of relatively simple and small-scale building works, referred to as minor works, to be carried out without having to seek the approval and consent of the Building Authority.

12. The Legal Adviser said that when the Panel on Planning, Lands and Works (PLW Panel) was consulted on the proposals at its meeting on 14 June 2002, members expressed concern about a number of issues, such as the definition of "minor works", and the identification of persons responsible for the removal of unauthorised building works.

13. The Legal Adviser added that the Legal Service Division was still scrutinising the legal aspects of the Bill and Members might wish to form a Bills Committee to study the Bill in detail.

14. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Miss Margaret NG, Mr Andrew WONG, Ms Miriam LAU, Mr TAM Yiu-chung, Mr WONG Sing-chi (as advised by Mr Fred LI) and Ms Audrey EU (as advised by Miss Margaret NG).

15. The Chairman added that the Bills Committee would be placed on the waiting list.

(ii) Hong Kong Examinations and Assessment Authority (Amendment) Bill 2003
(LC Paper No. LS 98/02-03)

16. Referring to the paper, the Legal Adviser explained that the Bill sought to amend the Hong Kong Examinations and Assessment Authority Ordinance

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(Cap. 261) to empower The Hong Kong Examinations and Assessment Authority (HKEAA) to conduct examinations and assessments on its own, jointly with or as agent for other persons and organisations in Hong Kong or elsewhere, and to award certificates to candidates who attain a standard determined by the Authority in such examinations and assessments. The Legal Adviser further explained that the Bill also sought to increase the fines for breach of secrecy and impersonation.

17. The Legal Adviser informed Members that the Panel on Education was briefed on the proposal at its meeting on 17 March 2003. While some Panel members expressed support for the proposal of empowering HKEAA to conduct examinations and assessment outside Hong Kong, some other Panel members were concerned about possible leakage of examination papers and suggested the Administration to consider a mechanism to prevent any such leakage.

18. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Ms Cyd HO, Mr CHEUNG Man-kwong, Mr YEUNG Yiu-chung and Mr Tommy CHEUNG.

19. The Chairman added that the Bills Committee would be placed on the waiting list.

(iii) Deposit Protection Scheme Bill
(LC Paper No. LS 96/02-03)

20. The Legal Adviser explained that the Bill sought to provide for the establishment of a Deposit Protection Scheme, the related management and administrative organ, the financial arrangements, the entitlements and payment of compensation, as well as incidental and consequential matters.

21. The Legal Adviser pointed out that as the Bill signified an important step in the protection of depositors, Members might wish to form a Bills Committee to study the provisions of the Bill in detail.

22. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Ir Dr Raymond HO, Mr Fred LI, Mr NG Leung-sing, Miss Margaret NG, Mr CHAN Kam-lam, Mr SIN Chung-kai and Ms Audrey EU (as advised by Miss Margaret NG).

23. The Chairman added that the Bills Committee would be placed on the waiting list.

(b) Legal Service Division report on subsidiary legislation gazetted on 25 April 2003 and tabled in Council on 30 April 2003

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(LC Paper No. LS 102/02-03)

24. The Legal Adviser said that only one item of subsidiary legislation, the Juvenile Offenders (Amendment) Ordinance 2003 (6 of 2003) (Commencement) Notice 2003, was gazetted on 25 April 2003 and tabled in Council on 30 April 2003.

25. The Legal Adviser said that the Notice appointed 1 July 2003 as the day on which the Juvenile Offenders (Amendment) Ordinance 2003 would come into operation. The Legal Adviser further said that the Amendment Ordinance, which was passed by the Council on 12 March 2003 after scrutiny by a Bills Committee, implemented the recommendation of the Law Reform Commission to raise the minimum age of criminal responsibility from seven to 10 years of age.

26. Miss Margaret NG said that the Panel on Administration of Justice and Legal Services would follow up the related policy issues raised by the Bills Committee. She did not consider a subcommittee necessary to study the Commencement Notice.

27. Members did not raise any queries on this item of subsidiary legislation.

28. The Chairman reminded Members that the deadline for amending this item of subsidiary legislation was 28 May 2003, or 18 June 2003 if extended by resolution.

IV. Business for the Council meeting on 14 May 2003

(a) Questions

(LC Paper No. CB(3) 586/02-03)

29. The Chairman said that 17 questions (six oral and 11 written) had been scheduled for the Council meeting on 14 May 2003. She reminded Members that the deadline for giving notice of questions was Saturday, 3 May 2003.

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

Broadcasting (Amendment) Bill 2003

30. The Chairman said that the above Bill would be introduced into the Council on 14 May 2003 and considered by the House Committee on 16 May 2003.

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- (c) **Bills - resumption of debate on Second Reading, Committee Stage
and Third Reading**
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Land (Miscellaneous Provisions) (Amendment) Bill 2002

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31. The Chairman said that the Bills Committee reported to the House Committee at the last meeting on 25 April 2003, and Members did not raise objection to the resumption of the Second Reading debate on the above Bill.

(d) Government motion

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

(e) Members' motions

(i) Motion on "Calling for the resignation of the Chief Executive, Mr TUNG Chee-hwa"

(Wording of the motion issued vide LC Paper No. CB(3) 587/02-03 dated 28 April 2003.)

(ii) Motion on "Exploring new areas of co-operation between Hong Kong and Guangdong"

(Wording of the motion issued vide LC Paper No. CB(3) 593/02-03 dated 29 April 2003.)

33. The Chairman said that the above motions would be moved by Mr Albert CHAN and Mr Ambrose LAU respectively and the wording of the motions had been issued to Members.

34. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Tuesday, 6 May 2003.

V. Chief Executive's Question and Answer Session on 15 May 2003

35. The Chairman said that the Chief Executive's Question and Answer Session would start at 3:00 pm on Thursday, 15 May 2003.

VI. Advance information on business for the Council meeting on 21 May 2003

Bills - First Reading and moving of Second Reading

United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003

36. The Chairman said that the above Bill would be introduced into the Council on 21 May 2003 and considered by the House Committee on 23 May 2003.

VII. Report of Bills Committee and subcommittee

(a) **Position report on Bills Committees/subcommittees**
(LC Paper No. CB(2) 1902/02-03)

37. The Chairman said that there were 15 Bills Committees and eight subcommittees in action as well as seven Bills Committees, including the Bills Committee on Buildings (Amendment) Bill 2003, the Bills Committee on Hong Kong Examinations and Assessment Authority (Amendment) Bill 2003 and the Bills Committee on Deposit Protection Scheme Bill formed under agenda item III(a) above, on the waiting list.

(b) **Report of the Bills Committee on Foreshore, Sea-bed and Roads (Amendment) Bill 2003**
(LC Paper No. CB(1) 1546/02-03)

38. The Chairman, who was also the Chairman of the Bills Committee, said that at its first meeting on 1 April 2003, the Bills Committee noted that the PLW Panel, the Advisory Council on the Environment and some green groups had all raised objection to the Administration's proposal to shorten the period for lodging objections to any proposed reclamations, plans or schemes under the Foreshore and Sea-bed (Reclamations) Ordinance and the Roads (Works, Use and Compensation) Ordinance from 60 to 30 days. The Chairman further said that as the Bills Committee was concerned that the proposal would affect the right of the public to lodge objections, members decided to seek public views on the Bill, and had scheduled a meeting for 2 May 2003 to meet with deputations.

39. The Chairman informed Members that on 25 April 2003, the Administration wrote to the Bills Committee proposing that further consideration of the Bill by the Bills Committee be suspended. The Bills Committee held an urgent meeting on 28 April 2003 to discuss the Administration's proposal.

40. The Chairman further informed Members that the Administration had explained that having regard to the views expressed by the Bills Committee and other relevant parties on the legislative proposals, in particular the proposal to shorten the objection period from 60 to 30 days, the Administration was prepared to reconsider the way forward on the Bill. The Administration had also explained that since the introduction of some internal administrative measures for expediting resolution of objections under statutory gazettals in May 2002, it had received quite a large number of objections to some major public works projects. Some of these objections required more time to

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resolve and the effectiveness of the administrative measures had yet to be assessed. In the Administration's view, the proposed arrangement for the Bills Committee to hold consideration of the Bill in abeyance would enable the Administration to fully assess the effectiveness of the administrative measures in expediting the delivery of public works projects, and to reconsider its legislative proposals.

41. The Chairman said that in deciding whether or not to introduce the Bill, the Administration should have considered the comments received on the legislative proposals and the fact that the effectiveness of the administrative measures had yet to be assessed. The Chairman further said that the Bills Committee agreed to the Administration's proposal to hold consideration of the Bill in abeyance, and had requested the Administration to report to the PLW Panel the progress and outcome of its assessment on the effectiveness of the administrative measures and the timetable for reverting back to the Bills Committee. The Bills Committee had also asked the Administration to consult the PLW Panel on any proposed changes to the content of the Bill.

42. Ir Dr Raymond HO said that the Administration had wasted Members' time. Dr HO pointed out that when the PLW Panel was consulted on the legislative proposals in May and December 2002, members strongly objected to the proposal to shorten the period for lodging objections. However, the Administration still introduced the Bill into LegCo despite Members' objection. Dr HO added that he supported the Bills Committee's conclusion that consideration of the Bill should be held in abeyance.

43. Ms Emily LAU said that while she agreed that consideration of the Bill should be held in abeyance, the Chairman should raise with CS that the purpose of presenting major legislative proposals to the relevant Panel was for consultation; hence the Administration should not have put forward the Bill, given that Panel members were unanimously against it. Ms LAU further said that introduction of the Bill had wasted Members' time.

44. Miss Margaret NG said that the proposal to shorten the period for lodging objections was an important change as this affected the rights of the public to lodge objections. She found it surprising that the Administration still proceeded to introduce the Bill into the Council in the absence of support from the PLW Panel and other relevant parties. She asked whether the Bills Committee had asked the Administration for an explanation.

45. The Chairman responded that the Bills Committee had raised such queries. The Administration had explained that it was prepared to introduce further measures to enhance the public consultation process before and after the gazettal of projects. The Administration considered that, with the enhanced public consultation process, the public would have better

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knowledge of the projects and would be able to lodge objections, if any, within 30 days of the gazettal. The Chairman added that the Bills Committee found the Administration's explanation unsatisfactory and unconvincing.

46. Dr TANG Siu-tong, Chairman of the PLW Panel, said that when the Panel was consulted on the legislative proposals at two separate meetings in 2002, members unanimously objected to the proposal of shortening the period for lodging objections. Dr TANG further said that the Chairman should convey to CS Members' strong views that introducing a bill which did not have any support was a waste of Council's time.

47. Dr YEUNG Sum expressed agreement that the Chairman should convey Members' views to CS. Dr YEUNG said that if the relevant LegCo Panel raised strong objection to a legislative proposal when consulted by the Administration, it should not have introduced the proposal, unless suitable amendments had been made to the original proposal in the light of the Panel's view.

48. Ir Dr Raymond HO said that Members had previously raised concern about the delay in public works projects, and had asked the Administration to expedite the delivery of the projects by reducing bureaucratic practices and procedures. It was never Members' intention that the period for lodging objections should be shortened, and the Administration should not use expediting the delivery of projects as an excuse for putting forward the proposal.

49. The Chairman said that she would convey Members' views to CS.

50. The Chairman further said that at the last House Committee meeting, Members agreed to give priority to the scrutiny of the Betting Duty (Amendment) Bill 2003, as recommended by Acting Director of Administration in her letter dated 24 April 2003. The Chairman added that as consideration of the Foreshore, Sea-bed and Roads (Amendment) Bill 2003 would be held in abeyance, the Bills Committee on Betting Duty (Amendment) Bill 2003 could commence work.

VIII. Any other business

51. There being no other business, the meeting ended at 2:56 pm.

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Council Business Division 2
Legislative Council Secretariat
7 May 2003