

LEGISLATIVE COUNCIL

MINUTES

No. 24

Minutes of the meeting held on Wednesday 21 April 2004 and
Thursday 22 April 2004 at 2:30 pm respectively

Members present:

President

The Hon Mrs Rita FAN HSU Lai-tai, GBS, JP

The Hon Kenneth TING Woo-shou, JP

The Hon James TIEN Pei-chun, GBS, JP

Dr the Hon David CHU Yu-lin, JP

The Hon Cyd HO Sau-lan

The Hon Albert HO Chun-yan

Ir Dr the Hon Raymond HO Chung-tai, JP

The Hon LEE Cheuk-yan

The Hon Martin LEE Chu-ming, SC, JP

Dr the Hon Eric LI Ka-cheung, GBS, JP

Dr the Hon David LI Kwok-po, GBS, JP

The Hon Fred LI Wah-ming, JP

Dr the Hon LUI Ming-wah, JP

The Hon NG Leung-sing, JP

The Hon Margaret NG

The Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP

The Hon James TO Kun-sun

The Hon CHEUNG Man-kwong

The Hon CHAN Kwok-keung, JP

The Hon CHAN Yuen-han, JP

The Hon Bernard CHAN, JP

The Hon CHAN Kam-lam, JP

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

The Hon LEUNG Yiu-chung

The Hon SIN Chung-kai

The Hon Andrew WONG Wang-fat, JP

Dr the Hon Philip WONG Yu-hong, GBS

The Hon WONG Yung-kan

The Hon Jasper TSANG Yok-sing, GBS, JP (absent on 21.4.2004)

The Hon Howard YOUNG, SBS, JP

Dr the Hon YEUNG Sum

The Hon YEUNG Yiu-chung, BBS

The Hon LAU Kong-wah, JP

The Hon LAU Wong-fat, GBS, JP

The Hon Miriam LAU Kin-yee, JP

The Hon Ambrose LAU Hon-chuen, GBS, JP (absent on 21.4.2004)

The Hon Emily LAU Wai-hing, JP

The Hon CHOY So-yuk

The Hon Andrew CHENG Kar-foo

The Hon SZETO Wah

The Hon Timothy FOK Tsun-ting, SBS, JP

Dr the Hon LAW Chi-kwong, JP

The Hon TAM Yiu-chung, GBS, JP

Dr the Hon TANG Siu-tong, JP

The Hon Abraham SHEK Lai-him, JP

The Hon LI Fung-ying, JP

The Hon Henry WU King-cheong, BBS, JP (absent on 21.4.2004)

The Hon Tommy CHEUNG Yu-yan, JP

The Hon Michael MAK Kwok-fung

The Hon Albert CHAN Wai-yip

The Hon LEUNG Fu-wah, MH, JP

Dr the Hon LO Wing-lok, JP

The Hon WONG Sing-chi

The Hon Frederick FUNG Kin-kee

The Hon IP Kwok-him, JP

The Hon LAU Ping-cheung

The Hon Audrey EU Yuet-mee, SC, JP

The Hon MA Fung-kwok, JP (absent on 22.4.2004)

Members absent:

The Hon HUI Cheung-ching, JP

The Hon LAU Chin-shek, JP

Public officers attending:

On 21.4.2004 and 22.4.2004

The Hon Donald TSANG Yam-kuen, GBM, JP
The Chief Secretary for Administration

The Hon Henry TANG Ying-yen, GBS, JP
The Financial Secretary

The Hon Elsie LEUNG Oi-sie, GBM, JP
The Secretary for Justice

The Hon Michael SUEN Ming-yeung, GBS, JP
Secretary for Housing, Planning and Lands

The Hon Joseph WONG Wing-ping, GBS, JP
Secretary for the Civil Service

The Hon Stephen IP Shu-kwan, GBS, JP
Secretary for Economic Development and Labour

Dr the Hon Sarah LIAO Sau-tung, JP
Secretary for the Environment, Transport and Works

The Hon Frederick MA Si-hang, JP
Secretary for Financial Services and the Treasury

The Hon Ambrose LEE Siu-kwong, IDSM, JP
Secretary for Security

The Hon John TSANG Chun-wah, JP
Secretary for Commerce, Industry and Technology

On 21.4.2004

Dr the Hon YEOH Eng-kiong, JP
Secretary for Health, Welfare and Food

Mr Albert LAI Kwok-ying, JP
Deputy Head, Central Policy Unit

On 22.4.2004

Dr the Hon Patrick HO Chi-ping, JP
Secretary for Home Affairs

The Hon Stephen LAM Sui-lung, JP
Secretary for Constitutional Affairs

Prof LAU Siu-kai, JP
Head, Central Policy Unit

Clerks in attendance:

On 21.4.2004 and 22.4.2004

Mr Ricky FUNG Choi-cheung, JP, Secretary General

Mr Ray CHAN Yum-mou, Assistant Secretary General (3)

On 22.4.2004

Mr LAW Kam-sang, JP, Deputy Secretary General

Tabling of Papers

The following papers were laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

<u>Subsidiary Legislation / Instruments</u>	<u>L.N. No.</u>
1. Designation of Libraries Order 2004 (gazetted on 26.3.2004)	47/2004
2. Antiquities and Monuments (Declaration of Historical Building) Notice 2004 (gazetted on 26.3.2004)	48/2004
3. Federation of Hong Kong Industries (Addition of a Scheduled Group) Notice 2004 (gazetted on 26.3.2004)	49/2004
4. Construction Industry Levy (Miscellaneous Amendments) Ordinance 2004 (3 of 2004) (Commencement) Notice 2004 (gazetted on 8.4.2004)	55/2004
5. Prisons (Hostel) (Amendment) Order 2004 (gazetted on 16.4.2004)	56/2004

Other Papers

- No.76 - Report No. 42 of the Director of Audit on the
results of value for money audits - March 2004
(published on 21.4.2004)
- No.77 - Approved Estimates of Income and Expenditure for
financial year 2004/2005, Securities and Futures
Commission (published on 15.4.2004)

Questions

Written replies to Questions 1 to 20 were tabled for Members' information.

Bill

Second Reading

Appropriation Bill 2004

The debate on the Second Reading which had been moved on 10 March 2004 resumed, in accordance with Rule 67(2) of the Rules of Procedure.

17 Members and Hon Emily LAU spoke on the motion.

While Hon Emily LAU was speaking, the President left the chair at 5:45 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Another four Members and Hon Mrs Sophie LEUNG spoke on the motion.

At 6:40 pm, while Hon Mrs Sophie LEUNG was speaking, the President resumed the chair.

Eight more Members spoke on the motion.

The President suspended the meeting at 8:23 pm.

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The Council resumed at 2:30 pm on 22 April 2004 and continued to debate the Second Reading of the Appropriation Bill 2004.

13 Members and Hon Margaret NG spoke on the motion.

While Hon Margaret NG was speaking, the President left the chair at 5:32 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Another seven Members and Hon CHOY So-yuk spoke on the motion.

At 7:12 pm, while Hon CHOY So-yuk was speaking, the President resumed the chair.

Two more Members spoke on the motion.

Hon Miriam LAU moved that the debate on the motion be adjourned to the meeting to be held on 28.4.2003.

Question on the motion proposed, put and agreed to.

Motion for Adjournment

Before calling upon Hon Frederick FUNG to move the motion for adjournment, the President clarified the circumstances relating to the permission given for moving the motion.

The President said that she noticed that there had been media reports and comments in that morning that some Members who were dissatisfied with the rulings had accused, outside the

Council, the rulings as politically motivated and aimed at canvassing votes. The President said that she was saddened by such acts of Members criticising the President's rulings. This was not the first time these happened.

The President said that she had all along been carrying out her duties from the procedural point of view and had been impartial, selfless, fearless and unwavering, in order that the Rules of Procedure are respected and to preserve the dignity of the Legislative Council. It was improper and ill-judged for Members to comment on the President's rulings outside the Council. She urged Members to abide by the convention and cooperate to uphold the dignity and reputation of the Council.

Hon Frederick FUNG moved the following motion and addressed the Council:

That the Council do now adjourn for the purpose of debating the Report by the Chief Executive of the Hong Kong Special Administrative Region to the Standing Committee of the National People's Congress on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008.

Question on the motion proposed.

20 Members, the Secretary for Constitutional Affairs and the Chief Secretary for Administration spoke on the motion.

Hon Frederick FUNG replied.

Question on the motion put and negatived.

Motions

Proposed resolution under the Interpretation and General Clauses Ordinance

The Secretary for Economic Development and Labour moved the motion in the Appendix and addressed the Council.

Question on the motion proposed.

Hon Miriam LAU, Chairman of the Subcommittee on Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation and Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation, spoke on the motion.

Question on the motion put and agreed to.

Next meeting

The President declared that the next meeting of the Council would be held on 28 April 2004 at 2:30 pm.

The Council was adjourned at 12:33 am on 23 April 2004.

(Mrs Rita FAN HSU Lai-tai)
President

Council Chamber
Hong Kong

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General
Clauses Ordinance (Cap. 1))

MERCHANT SHIPPING (LOCAL VESSELS) (CERTIFICATION
AND LICENSING) REGULATION
MERCHANT SHIPPING (LOCAL VESSELS) (TYPHOON SHELTERS) REGULATION

RESOLVED that -

(a) the Merchant Shipping (Local Vessels)
(Certification and Licensing) Regulation, published
in the Gazette as Legal Notice No. 27 of 2004 and
laid on the table of the Legislative Council on 3
March 2004, be amended -

(i) in section 2(1), by adding -

"length overall" (總長度), in

relation to a local vessel,

means the distance between the

foreside of the foremost fixed

permanent structure and the
aftside of the aftermost fixed
permanent structure of the
vessel";

- (ii) in section 6(3)(a), by repealing "有效";
- (iii) in section 10(4)(a)(v), by adding "of the
vessel" after "construction";
- (iv) in section 19, by adding -
 - "(8) If the Director refuses to
issue or renew a temporary licence,
he shall notify the applicant of the
refusal and the reasons therefor.";
- (v) in section 21, by adding -
 - "(4) A permission for a laid-
up vessel shall be in such form as
the Director may determine.";
- (vi) in section 23 -
 - (A) by renumbering subsections (5) and
(6) as subsections (6) and (7)
respectively;
 - (B) by adding -
 - "(5) If the Director
refuses an application under
subsection (2), he shall notify
the applicant of the refusal
and the reasons therefor.";

(C) in subsection (7), by repealing

"(5)" and substituting "(6)";

(vii) in section 26, by adding -

"(5) If the Director refuses an application under subsection (2), he shall notify the applicant of the refusal and the reasons therefor.";

(viii) in section 49(2), by adding "有關" before "船隻";

(ix) in section 54(1)(a), by adding "書面" after "作出的";

(x) by repealing section 55 and substituting -

**"55. Certificate of ownership, etc.
not to be relied on for other
purposes**

(1) A certificate of ownership, full licence, temporary licence, permission for a laid-up vessel or any other document issued, granted, renewed or endorsed under the provisions of this Regulation or section 66 of the Ordinance is issued, granted, renewed or endorsed for the purposes of the Ordinance only.

(2) Despite any information as to ownership of or interest in a local vessel contained in a document referred to in subsection (1) in respect of the vessel, the document shall not be taken as making, for any purpose otherwise than of the Ordinance, a representation as to who owns, or has any interest in, the vessel.

(3) No action shall lie against the Government, the Director or any other officer in respect of any loss or damage suffered by any person as a result of any error or omission in the information as to ownership of or interest in a local vessel contained in a document referred to in subsection (1) in respect of the vessel, if the error or omission was made in good faith and in the ordinary course of the performance of any function relating to the document." ;

(b) the Merchant Shipping (Local Vessels)(Typhoon Shelters) Regulation, published in the Gazette as

Legal Notice No. 28 of 2004 and laid on the table of the Legislative Council on 3 March 2004, be amended -

- (i) by renumbering sections 11 and 12 as sections 12 and 13 respectively;
- (ii) by adding -

"11. Appeals

(1) Any person aggrieved by the exercise of the power conferred on the Director under section 4(6), (7) or (8) may appeal to the Administrative Appeals Board.

(2) An appeal under subsection (1) shall be made within 14 days after an endorsement is made or a direction is given by virtue of the exercise of the power under section 4(6), (7) or (8).

(3) An appeal made under subsection (1) shall not affect the operation of the endorsement or the direction prior to the determination of the appeal."

- (iii) in the Schedule, within the square brackets, by repealing "11" and substituting "12".