

立法會  
*Legislative Council*

LC Paper No. CB(2) 1026/04-05

Ref : CB2/H/5/04

**House Committee of the Legislative Council**

**Minutes of the 18th meeting  
held in the Legislative Council Chamber  
at 4:23 pm on Friday, 4 March 2005**

**Members present :**

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)  
Hon Fred LI Wah-ming, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP  
Hon Margaret NG  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon CHAN Yuen-han, JP  
Hon Bernard CHAN, JP  
Hon CHAN Kam-lam, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon LEUNG Yiu-chung  
Hon SIN Chung-kai, JP  
Hon WONG Yung-kan, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Howard YOUNG, SBS, JP  
Dr Hon YEUNG Sum  
Hon LAU Chin-shek, JP  
Hon LAU Kong-wah, JP  
Hon CHOY So-yuk  
Hon Andrew CHENG Kar-foo  
Hon Abraham SHEK Lai-him, JP  
Hon LI Fung-ying, BBS, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip  
Hon Frederick FUNG Kin-kee, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Vincent FANG Kang, JP  
Hon WONG Kwok-hing, MH

Hon LEE Wing-tat  
Hon LI Kwok-ying, MH  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon MA Lik, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Dr Hon KWOK Ka-ki  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon WONG Ting-kwong, BBS  
Hon Ronny TONG Ka-wah, SC  
Hon Patrick LAU Sau-shing, SBS, JP  
Hon Albert Jinghan CHENG  
Hon KWONG Chi-kin  
Hon TAM Heung-man

**Members absent :**

Hon James TIEN Pei-chun, GBS, 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 Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Dr Hon Philip WONG Yu-hong, GBS  
Hon LAU Wong-fat, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon TAM Yiu-chung, GBS, JP  
Dr Hon Joseph LEE Kok-long  
Hon Daniel LAM Wai-keung, BBS, JP  
Hon CHEUNG Hok-ming, SBS, JP  
Hon CHIM Pui-chung

**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

Ms Pauline NG	Assistant Secretary General 1
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Vivian KAM	Principal Council Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mrs Constance LI	Chief Council Secretary (2)5
Mrs Betty LEUNG	Chief Council Secretary (3)1
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Lolita SHEK	Senior Council Secretary (2)7

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Action

**I. Confirmation of the minutes of the 17th meeting held on 25 February 2005**  
(*LC Paper No. CB(2) 984/04-05*)

The minutes were confirmed.

**II. Business arising from previous Council meetings**

**Legal Service Division report on subsidiary legislation gazetted on 25 February 2005 and tabled in Council on 2 March 2005**

(*LC Paper No. LS 38/04-05*)

2. The Legal Adviser said that two items of subsidiary legislation relating to the deletion of two public markets from the Tenth Schedule to the Public Health and Municipal Services Ordinance were gazetted on 25 February 2005, and tabled in the Legislative Council (LegCo) on 2 March 2005.

3. Members did not raise any queries on the two items of subsidiary legislation.

4. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 16 March 2005, or 20 April 2005 if extended by resolution.

**III. Further business for the Council meeting of 9 March 2005**

**Tabling of Papers**

**Report of the Committee on Members' Interests**

5. Mrs Sophie LEUNG, Chairman of the Committee on Members' Interests (CMI), said that the report of the CMI's consideration of the cases of Mr James TO's failure to register interests with the Clerk to LegCo pursuant to Rule 83 of

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the Rules of Procedure would be tabled at the Council meeting of 9 March 2005. The report would remain confidential until then.

**IV. Business for the Council meeting on 16 March 2005**

(a) **Questions**

*(LC Paper No. CB(3) 410/04-05)*

6. The Chairman said that 20 written questions had been scheduled for the Council meeting on 16 March 2005, as the Financial Secretary (FS) would deliver his Budget speech.

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

7. The Chairman said that the Administration had advised the Clerk to LegCo that FS would present to the Council the Appropriation Bill 2005 and the estimates of expenditure for the year ending 31 March 2006.

(c) **Government motion**

**The Secretary for Financial Services and the Treasury has given notice to move the proposed Vote on Account Resolution under the Public Finance Ordinance**

*(LC Paper No. LS 39/04-05)*

8. The Chairman explained that the purpose of the proposed resolution was to seek funds on account to enable the Government to carry on existing services between the start of the financial year on 1 April 2005 and the enactment of the Appropriation Ordinance 2005. The wording of the proposed resolution had been issued vide LC Paper No. CB(3) 412/04-05 dated 2 March 2005.

9. Members did not raise objection to SFST moving the proposed resolution at the Council meeting on 16 March 2005.

**V. Position on Bills Committees/subcommittees**

*(LC Paper No. CB(2) 985/04-05)*

10. The Chairman said that there were seven Bills Committees and six subcommittees in action.

**VI. Report of the Panel on Administration of Justice and Legal Services concerning the factors relevant to determining whether an instrument is subsidiary legislation**

*(LC Paper No. CB(2) 990/04-05)*

11. Ms Margaret NG, Chairman of the Panel, said that the Panel agreed that there were inherent difficulties in providing a definition for instruments with or without legislative effect. It was also impracticable to review all existing instruments to determine whether or not they should be subsidiary legislation.

12. Ms NG added that the Panel considered that the Administration's practice of including in new legislation an express provision declaring or clarifying the character of an instrument should continue. In cases where Members did not agree with the Administration whether a certain instrument was subsidiary legislation, Members could consider moving amendments to the relevant bill. It would be for the Council to decide whether to pass the amendments. Any disputes over whether or not an instrument was subsidiary legislation would ultimately have to be decided by the court.

13. Members noted the views of the Panel as set out in paragraphs 18 and 19 of the paper.

**VII. Any other business**

14. There being no other business, the meeting ended at 4:29 pm.