

立法會  
*Legislative Council*

LC Paper No. CB(2) 1384/04-05

Ref : CB2/H/5/04

**House Committee of the Legislative Council**

**Minutes of the 24th meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 22 April 2005**

**Members present :**

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)  
Hon Fred LI Wah-ming, JP (Deputy Chairman)  
Hon James TIEN Pei-chun, GBS, JP  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Dr Hon LUI Ming-wah, JP  
Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
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 SIN Chung-kai, JP  
Dr Hon Philip WONG Yu-hong, GBS  
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 LAU Wong-fat, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk  
Hon Andrew CHENG Kar-foo  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon TAM Yiu-chung, GBS, JP

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 Daniel LAM Wai-keung, BBS, 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 CHEUNG Hok-ming, SBS, JP  
Hon WONG Ting-kwong, BBS  
Hon Ronny TONG Ka-wah, SC  
Hon CHIM Pui-chung  
Hon Patrick LAU Sau-shing, SBS, JP  
Hon Albert Jinghan CHENG  
Hon KWONG Chi-kin  
Hon TAM Heung-man

**Members absent :**

Dr Hon David LI Kwok-po, GBS, JP  
Hon LEUNG Yiu-chung  
Hon LI Kwok-ying, MH  
Dr Hon Joseph LEE Kok-long  
Hon Jeffrey LAM Kin-fung, SBS, 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  
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 Council Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Miss Becky YU	Chief Council Secretary (1)1
Miss Odelia LEUNG	Chief Council Secretary (1)4
Mrs Constance LI	Chief Council Secretary (2)5
Mrs Betty LEUNG	Chief Council Secretary (3)1
Ms Bernice WONG	Assistant Legal Adviser 1
Mr Stephen LAM	Assistant Legal Adviser 4
Miss Lolita SHEK	Senior Council Secretary (2)7

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**I. Confirmation of the minutes of the 23rd meeting held on 15 April 2005**  
(*LC Paper No. CB(2) 1319/04-05*)

The minutes were confirmed.

**II. Matters arising**

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

**The Chief Executive (CE)'s Question and Answer Session on 28 April 2005**

2. The Chairman said that she had conveyed to CS Members' request for the duration of the CE' Question and Answer Session on 28 April 2005 to be extended by half an hour. CS had responded that he had a commitment after the Session, but he would try his best to stay longer.

3. The Chairman further said that she had also conveyed to CS Ms Emily LAU's request regarding her written question on meetings between CS and officials of the Central People's Government.

4. The Chairman added that in his reply dated 15 April 2005, CS had declined to attend a special House Committee meeting to brief Members on his meeting with Mr LIAO Hui. CS had stated that he would be happy to recount his meeting with Mr LIAO at the CE's Question and Answer Session on 28 April 2005, if Members were still interested in this matter.

### III. Business arising from previous Council meetings

#### **Legal Service Division report on subsidiary legislation gazetted on 15 April 2005 and tabled in Council on 20 April 2005**

*(LC Paper No. LS 51/04-05)*

5. The Chairman said that a total of five items of subsidiary legislation were gazetted on 15 April 2005, and tabled in the Legislative Council (LegCo) on 20 April 2005.

6. Regarding the Town Planning (Amendment) Ordinance 2004 (Commencement) Notice, the Legal Adviser explained that the Notice appointed 10 June 2005 as the date on which the Town Planning (Amendment) Ordinance 2004 (25 of 2004) would come into operation.

7. The Chairman said that she had received a letter dated 21 April 2005 from Mr Abraham SHEK detailing his various concerns about the Town Planning Board guidelines, and his letter had been circulated to Members.

8. Mr Abraham SHEK said that the real estate and construction trades supported the Amendment Ordinance, and hoped that it could come into operation on 10 June 2005. However, he considered that a subcommittee should be set up to enable Members and the Administration to discuss with the trades their concerns about the guidelines. Mr SHEK added that communication between the trades and the Administration was crucial to the smooth implementation of the Amendment Ordinance.

9. Mr James TO said that while he had no objection to setting up a subcommittee to further discuss the guidelines, he wished to point out that the Administration had consulted the relevant trades on the draft Town Planning Board guidelines, before providing them to the Panel on Planning, Lands and Works for discussion on 22 March 2005. The Panel had also held a special meeting on 1 April 2005 to discuss the guidelines in detail.

10. Mr Patrick LAU, Deputy Chairman of the Panel on Planning, Lands and Works, declared that he was the Vice Chairman of the Town Planning Board. Mr LAU said that the Panel had discussed with the Administration, on 22 March and 1 April 2005, the implementation of the Amendment Ordinance and the draft Town Planning Board guidelines. He chaired the meeting on 1 April 2005 as the Panel Chairman, Mr LAU Wong-fat, was unable to attend the meeting. Mr LAU further said that some Panel members had raised various concerns about the draft guidelines, such as the requirement that an applicant must obtain the consent of or notify each owner concerned when submitting an application for amendments to plans or planning permissions. Mr LAU added that the Administration had subsequently taken on board the suggestions made by members.

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11. Mr Patrick LAU informed Members that the Panel considered that the Amendment Ordinance should come into operation as soon as possible. He hoped that the subcommittee, if formed, could complete scrutiny of the subsidiary legislation expeditiously, so that the Amendment Ordinance could come into operation on 10 June 2005.

12. Ms Emily LAU and Mr Albert CHAN said that the Amendment Ordinance should be implemented without delay. While they had no objection to setting up a subcommittee to clarify certain issues in relation to the Town Planning Board guidelines, they considered that Members or the trades should not seek to delay implementation of the Amendment Ordinance.

13. Mr Albert CHAN further said that recently there was a surge in applications for amendments to plans, before implementation of the new planning guidelines. Mr CHAN expressed concern that there could be problems, if implementation of the Amendment Ordinance was delayed. Mr CHAN asked whether scrutiny of the Commencement Notice by a subcommittee would delay the coming into operation of the Amendment Ordinance.

14. The Legal Adviser explained that the Commencement Notice had appointed 10 June 2005 as the date on which the Amendment Ordinance would come into operation. The scrutiny period of the Notice would expire on 18 May 2005, or 8 June 2005 if extended by resolution. Unless an amendment to the commencement date was moved and passed by LegCo, the Amendment Ordinance would come into operation on 10 June 2005.

15. Mrs Selina CHOW said that it was procedurally in order for any Member to request that a subcommittee be set up to study an item of subsidiary legislation. She did not consider that other Members should object to such requests.

16. Mr Abraham SHEK said that the trades had in fact put in a lot of efforts to study the Amendment Ordinance with a view to improving the town planning process in Hong Kong. Mr SHEK stressed that his suggestion to set up a subcommittee was to enhance communication between the trades and the Administration on the Town Planning Board guidelines, in order to facilitate implementation of the Amendment Ordinance. Mr SHEK added that he had no intention of delaying implementation of the Amendment Ordinance.

17. Dr YEUNG Sum supported Mr Abraham SHEK's request for the formation of a subcommittee. He added that the Subcommittee, if formed, could deal with the concerns of Members and the trades at one or two meetings.

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18. The Chairman proposed that a subcommittee be formed to study the Commencement Notice. Members agreed. The following Members agreed to join: Mr James TIEN, Ir Dr Raymond HO, Dr LUI Ming-wah, Mr James TO, Ms Emily LAU, Mr Abraham SHEK, Mr Albert CHAN, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr CHEUNG Hok-ming and Mr Patrick LAU.

19. Members did not raise any queries on the other four items of subsidiary legislation.

20. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 18 May 2005, or 8 June 2005 if extended by resolution.

**IV. Further business for the Council meeting on 27 April 2005**

**Bills - First Reading and moving of Second Reading**

**Revenue (Allowances for Tax) Bill 2005**

21. The Chairman said that the Administration had given notice to present the above Bill to LegCo on 27 April 2005. The House Committee would consider the Bill at its meeting on 29 April 2005.

**V. Business for the Council meeting on 4 May 2005**

(a) **Questions**  
(*LC Paper No. CB(3) 509/04-05*)

22. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 4 May 2005.

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

**Public Health and Municipal Services (Amendment) Bill 2005**

23. The Chairman said that the Administration had given notice to present the above Bill to LegCo on 4 May 2005. The House Committee would consider the Bill at its meeting on 6 May 2005.

(c) **Government motion**

**Proposed resolution to be moved by the Secretary for Health, Welfare and Food (SHWF) under the Pharmacy and Poisons Ordinance relating to:**

(i) **the Pharmacy and Poisons (Amendment) Regulation 2005; and**

(ii) **the Poisons List (Amendment) Regulation 2005**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 497/04-05 dated 14 April 2005.)*

*(LC Paper No. LS 48/04-05)*

24. The Legal Adviser explained that the Pharmacy and Poisons (Amendment) Regulation 2005 and the Poisons List (Amendment) Regulation 2005 sought to add six new drugs/medicines to part A of the First and Third Schedules to the Pharmacy and Poisons Regulations and part A of Part I of the Poisons List. Their addition meant that pharmaceutical products containing any of these six substances must be sold in pharmacies by or under the supervision of a registered pharmacist and in his presence, with the support of prescriptions given by a registered medical practitioner, registered dentist or registered veterinary surgeon.

25. Members did not raise objection to SHWF moving the proposed resolution at the Council meeting on 4 May 2005.

(d) **Members' Bills - First Reading and moving of Second Reading**

**Federation of Hong Kong Industries (Amendment) Bill 2005**

26. The Chairman said that Mr Andrew LEUNG had given notice to present the above Bill to LegCo on 4 May 2005. The House Committee would consider the Bill at its meeting on 6 May 2005.

(e) **Members' motions**

(i) **Proposed resolution to be moved by Hon Jasper TSANG Yok-sing under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 508/04-05 dated 18 April 2005.)*

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27. The Chairman said that as agreed at the last House Committee meeting, Mr Jasper TSANG would move a motion to amend Rules 21, 54 and 64 of the Rules of Procedure to allow withdrawal of a bill at the beginning of the resumption of the Second Reading debate on the bill.

(ii) **Motion on “Reviewing the protection of wages on insolvency system”**

*(Wording of the motion issued vide LC Paper No. CB(3) 512/04-05 dated 19 April 2005.)*

(iii) **Motion on “Opposing Japan’s textbooks distorting history”**

*(Wording of the motion issued vide LC Paper No. CB(3) 513/04-05 dated 19 April 2005.)*

28. The Chairman said that the above motions would be moved by Mr Jasper TSANG and Mr LAU Kong-wah respectively, and the wording of the motions had been issued to Members.

29. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Tuesday, 26 April 2005.

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

*(LC Paper No. CB(2) 1318/04-05)*

30. The Chairman said that there were 12 Bills Committees and eight subcommittees in action, including the subcommittee formed under item III above to study the Town Planning (Amendment) Ordinance 2004 (Commencement) Notice.

31. The Chairman further said that the Bills Committee on Transfer of Sentenced Persons (Amendment) (Macau) Bill would have to work beyond three months since its commencement, and the speaking note of Mr James TO, Chairman of the Bills Committee, was tabled at the meeting.

32. On behalf of Mr James TO, Ms Margaret NG said that the Bills Committee considered it more appropriate to conclude scrutiny of the Bill after the Administration had signed the transfer of sentenced persons agreement with Macau.

33. Members did not raise objection to the extension of the scrutiny period of the Bill.



**VII. Report of the Panel on Housing on disposal of surplus Home Ownership Scheme and Private Sector Participation Scheme flats**  
(*LC Paper No. CB(1) 1322/04-05*)

34. Mr CHAN Kam-lam, Chairman of the Panel on Housing, said that the Panel passed a motion on 3 November 2003 urging the Administration to resume the sale of unsold/returned Home Ownership Scheme (HOS) flats and unsold blocks in partially occupied/sold HOS courts by phases. At its meeting on 12 April 2005, the Panel passed the same motion, as members were disappointed that the Administration had declined to consider resuming the sale of HOS flats, despite repeated requests by members. Some members had suggested that the Chairman of the House Committee should be requested to convey the Panel's view on the issue to CS.

35. Referring to paragraph 5 of the Panel's report, Mr Abraham SHEK said that it was not the unanimous view of the Panel that the Government should resume the sale of HOS flats, as he had voted against the motion at the meeting on 12 April 2005. Mr SHEK further said that in 2003, the Government had announced its decision not to offer the unsold and returned HOS/Private Sector Participation Scheme (PSPS) flats for sale before the end of 2006. It would not be desirable for the Government to rescind its decision in response to the request of the Panel, as the market would be getting confusing messages from the Government.

36. Mr CHAN Kam-lam clarified that the description of "the unanimous view of the Panel" referred to the fact that the view of Panel on the sale of HOS flats expressed at the two meetings was the same. Mr CHAN regretted for the misunderstanding caused.

37. Mrs Selina CHOW said that Members belonging to the Liberal Party (LP) supported the Government's policy of not offering unsold and returned HOS/PSPS flats for sale before the end of 2006, as they considered that the Government should minimise its intervention in the market. Mrs CHOW further said that Members belonging to LP did not support the motion, but as they were not present at the meeting on 12 April 2005, they had not given any views on the motion.

38. Mrs CHOW added that Members belonging to LP had reservations about a Panel requesting the Chairman of the House Committee to convey the Panel's views on a particular policy issue to CS. If the Panel considered that the Administration was not responding to its views, it could move a motion on the policy issue for debate in Council. Mrs CHOW considered that it was not appropriate for a Panel to refer a policy issue to the House Committee for discussion, as it was not the function of the House Committee to discuss policy issues. It was also not appropriate for the Chairman of the House Committee

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to discuss a policy issue with CS or other representatives of the Administration, on behalf of a Panel.

39. Mr James TIEN said that as the position of a Panel on a particular policy issue did not necessarily represent that of LegCo, it was more appropriate for the Panel on Housing to move a motion on the issue for debate in Council, so as to send a clear message to the Administration about LegCo's stance on the issue.

40. Ms Margaret NG said that she supported the motion passed by the Panel on Housing on 12 April 2005. However, she considered that it was not appropriate for the Panel to refer the issue to the House Committee for discussion, as it was her understanding that it was not a function of the House Committee to discuss policy issues. Ms NG sought clarification on whether her understanding was correct.

41. The Secretary General (SG) agreed with Mrs Selina CHOW and Ms Margaret NG that it was not a function of the House Committee to discuss policy issues. SG added that the House Committee was mainly responsible for considering matters relating to the business of the Council.

42. Mr LAU Kong-wah considered that procedurally, it was not appropriate for the Panel to refer its view on the resumption of sale of HOS flats to the House Committee for follow-up. Mr LAU added that the Panel could consider writing to CS directly to convey its view on the issue.

43. Mr LAU Kong-wah pointed out that if the Chairman of the House Committee wrote to CS as requested by the Panel, it could create the impression that the House Committee also supported the motion passed by the Panel on Housing, which was not the case.

44. The Chairman concurred with Mr LAU. The Chairman added that if Members wished to express views on the issue, consideration should be given to moving a motion on the issue for debate in Council. It was not appropriate for the House Committee to be involved in the deliberation of policy issues.

45. Mr CHAN Kam-lam said that he shared the view that it was not appropriate for a Panel to refer its views on a policy issue to the House Committee for consideration. Mr CHAN explained that at the meeting on 12 April 2005, some members had suggested that the Chairman of the House Committee should be requested to convey the Panel's view to CS. Although he queried the appropriateness of such a request, other members present at the meeting had not raised any objection. As the Chairman of the Panel, he had the duty to put forward the request to the House Committee, pursuant to the Panel's decision.

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46. Mr LAU Kong-wah said that the House Committee should make a decision not on the request of the Panel on Housing, but on the principle of whether Panels should refer policy issues to the House Committee for consideration. Mr James TIEN agreed with Mr LAU.

47. The Chairman proposed that Panels should not refer policy issues to the House Committee for consideration. Members agreed.

**VIII. Any other business**

48. There being no other business, the meeting ended at 3:05 pm.

Council Business Division 2  
Legislative Council Secretariat  
27 April 2005

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