

立法會  
*Legislative Council*

LC Paper No. CB(2) 1579/04-05

Ref : CB2/H/5/04

**House Committee of the Legislative Council**

**Minutes of the 27th meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 13 May 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 David LI Kwok-po, GBS, 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 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 Kong-wah, 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



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
Miss Kathleen LAU	Chief Public Information Officer
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
Ms Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Miss Lolita SHEK	Senior Council Secretary (2)7

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Action

**I. Confirmation of the minutes of the 26th meeting held on 6 May 2005**  
(LC Paper No. CB(2) 1511/04-05)

The minutes were confirmed.

**II. Matters arising**

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

Revenue (Abolition of Estate Duty) Bill 2005

2. The Chairman said that the Administration had again requested that priority be given to the scrutiny of the Revenue (Abolition of Estate Duty) Bill 2005. The Chairman referred Members to the Director of Administration (D of Adm)'s letter dated 12 May 2005 on the matter. The Chairman added that in D of Adm's earlier letter dated 5 May 2005, the Administration proposed that the Revenue (Abolition of Estate Duty) Bill 2005 should take a higher priority if the Bill and the Revenue (Personalized Vehicle Registration Marks) Bill were taken together.

3. The Chairman said that the Administration's request would be dealt with under agenda item III(a) below.

### 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) **Revenue (Abolition of Estate Duty) Bill 2005**

*(LC Paper No. LS 65/04-05)*

*[Previous paper:*

*Letter dated 5 May 2005 from the Director of Administration on "Proposed Priority in the Scrutiny of Bills by Members" issued vide LC Paper Nos. CB(2) 1480 and 1487/04-05 dated 6 May 2005]*

4. The Chairman said that the Bill sought to give effect to the proposal in the 2005-2006 Budget to abolish estate duty, and to make related and consequential amendments. The Chairman added that the Legal Service Division was still scrutinising the Bill.

5. Ms Margaret NG requested that the Legal Service Division should also examine the impact of the Bill on other legislation. Ms NG said that a Bills Committee should 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: Mr James TIEN, Mr Albert HO (as advised by Dr YEUNG Sum), Dr David LI, Dr LUI Ming-wah, Ms Margaret NG, Miss CHAN Yuen-han (as advised by Mr KWONG Chi-kin), Mr CHAN Kam-lam, Mr SIN Chung-kai, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Vincent FANG, Mr LI Kwok-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr Ronny TONG and Mr Patrick LAU.

7. Referring to the Administration's request for priority, the Chairman pointed out that as there were 15 Bills Committees in action, there was no vacant slot at the moment. The Chairman said that Members could consider the option of increasing the number of Bills Committees in action from 15 to 16, so that this Bills Committee could commence work immediately.

8. Ms Margaret NG, Chairman of the Bills Committee on Trade Descriptions (Amendment) Bill 2004, said that the Bills Committee would complete scrutiny of the Bill at the meeting scheduled for 17 May 2005. While Members would normally accede to the Administration's requests for priority of scrutiny of government bills, Members should not be rushed into completing scrutiny of the Revenue (Abolition of Estate Duty) Bill 2005, as it had implications on other legislation.

Action

9. In response to the Chairman, Assistant Secretary General 2 said that if the Bills Committee on Trade Descriptions (Amendment) Bill 2004 could report to the House Committee on 20 May 2005, the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 could then commence work.

10. Mr Ronny TONG said that he was a member of the Bills Committee on Trade Descriptions (Amendment) Bill 2004, and the Administration had just provided a response to his queries on the Bill. He expected that the Bills Committee could complete scrutiny of the Bill at its meeting on 17 May 2005. Ms Margaret NG added that subject to the agreement of the Bills Committee, she could make a verbal report to the House Committee on 20 May 2005.

11. Mr Ronny TONG, Ms Emily LAU, Dr YEUNG Sum, Mr Fred LI and Mr Martin LEE were of the view that the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 should be activated when a vacant slot became available, after the Bills Committee on Trade Descriptions (Amendment) Bill 2004 had reported to the House Committee on 20 May 2005.

12. Mr Ronny TONG did not agree that there was urgency in enacting the Revenue (Abolition of Estate Duty) Bill 2005, and scrutiny of other bills should be deferred to make way for the scrutiny of this Bill. He added that there was insufficient discussion in the community on whether estate duty should be abolished.

13. Mr James TIEN asked whether it was possible to defer scrutiny of the other two revenue bills, so that a slot could be allocated to the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005.

14. The Chairman said that D of Adm had only indicated in her earlier letter dated 5 May 2005 that if the Revenue (Abolition of Estate Duty) Bill 2005 and the Revenue (Personalized Vehicle Registration Marks) Bill were taken together, the former Bill should take a higher priority. There was no mention of the Revenue (Allowances for Tax) Bill 2005.

15. Ms Margaret NG said that the Bills Committee on Revenue (Personalized Vehicle Registration Marks) Bill 2005 had just held its first meeting. Ms NG added that scrutiny of the Revenue (Allowances for Tax) Bill 2005 should not be deferred, as enactment of this Bill would benefit more people than enactment of the Revenue (Abolition of Estate Duty) Bill 2005.

16. The Chairman clarified that the Administration had not requested that scrutiny of the Revenue (Allowances for Tax) Bill 2005 be deferred.

Action

17. Mr James TIEN said that in anticipation that the Bills Committee on Trade Descriptions (Amendment) Bill 2004 would complete its work in the following week, Members belonging to the Liberal Party supported the option of increasing the number of Bills Committees in action from 15 to 16 to enable the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 to commence work immediately.

18. Mr LAU Kong-wah supported increasing the number of Bills Committees in action from 15 to 16. He added that there were such precedents in the past.

19. Ms Margaret NG, Mr Fred LI, Dr YEUNG Sum and Mr Ronny TONG did not agree to increase the number of Bills Committees in action from 15 to 16. They said that as a vacant slot would be available in the following week, they could not see why the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 could not wait for one more week to commence work.

20. Ms Margaret NG and Mr Fred LI further said that the number of Bills Committees in action should only be increased in very exceptional circumstances, such as the need to complete scrutiny of bills at the end of a term.

21. Ms Margaret NG and Ms Audrey EU added that the staff of the Legislative Council (LegCo) Secretariat might not be able to cope with the additional workload.

22. The Secretary General (SG) said that if Members decided to have one extra Bills Committee in action, the LegCo Secretariat would try its best to provide the support services.

23. Mr Fred LI said that as the Bill was controversial, there was no guarantee that scrutiny of the Bill could be completed in time for the Bill to be enacted before the end of this session. Mr LI further said that the Bills Committee should be activated when there was a vacant slot on 20 May 2005, but preparatory work could commence this week.

24. Mr James TIEN said that as the Financial Secretary had already announced in his Budget speech the proposal to abolish estate duty, enactment of the Bill should not be delayed, as it would adversely affect the international image of Hong Kong. Mr TIEN further said that activating the Bills Committee immediately would allow more time for it to gauge the views of the parties concerned. Mr TIEN envisaged that the Bills Committee would not have a lot of work to do in the first week.

Action

25. Mr Andrew LEUNG suggested that Mr James TIEN's proposal to increase the number of Bills Committees in action from 15 to 16 should be put to vote.

26. The Chairman put Mr James TIEN's proposal to vote. The outcome was that 24 Members voted in favour of the proposal, 20 voted against the proposal and one Member abstained from voting. The Chairman said that the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 could commence work immediately.

(ii) **Smoking (Public Health) (Amendment) Bill 2005**  
(*LC Paper No. LS 63/04-05*)

27. The Chairman said that the Bill sought to amend the Smoking (Public Health) Ordinance (Cap. 371) and its subsidiary legislation to tighten the control on smoking. The Chairman added that the Legal Service Division was still scrutinising the Bill.

28. Mr Tommy CHEUNG said that a Bills Committee should be formed to study the Bill.

29. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join: Mr James TIEN, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr Bernard CHAN (as advised by Mr Abraham SHEK), Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Tommy CHEUNG, Mr Albert CHAN, Ms Audrey EU, Mr Vincent FANG, Mr LI Kwok-ying, Dr Joseph LEE, Dr KWOK Ka-ki, Mr WONG Ting-kwong, Mr Albert CHENG and Mr KWONG Chi-kin.

30. The Chairman said that as there was no vacant slot, the Bills Committee on Smoking (Public Health) (Amendment) Bill 2005 would be placed on the waiting list.

31. The Chairman added that the number of Bills Committee in action would revert to 15, when the Bills Committee on Trade Descriptions (Amendment) Bill 2005 completed scrutiny of the Bill and released its slot.

32. Ms Margaret NG asked why the quota of Bills Committees in action should revert to 15 and not be maintained at 16.

Action

33. The Chairman responded that the number of Bills Committees in action was increased to 16 temporarily to enable the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 to commence its work immediately. The number of Bills Committees in action should revert to 15, when the Bills Committee on Trade Descriptions (Amendment) Bill 2004 released its slot.

34. Mr James TO, Ms Margaret NG, Mr Albert CHENG, Mr LEE Cheuk-yan and Mr Martin LEE said that Members did not have such an understanding when they voted on the proposal to increase the number of Bills Committee from 15 to 16 under agenda item III(a)(i). They considered that as the House Committee had just decided to increase the number of Bills Committees in action to 16, the number should be maintained at 16 until the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 completed its work. As such, the Bills Committee on Smoking (Public Health) (Amendment) Bill 2005 should be activated once a slot was available upon completion of work of the Bills Committee on Trade Descriptions (Amendment) Bill 2004.

35. The Chairman said that as in previous cases, the provision of an extra Bills Committee slot was only a temporary arrangement, and the number of Bills Committees in action should be maintained at 15.

36. Mr James TIEN said that his proposal of providing an extra Bills Committee slot was only a temporary arrangement to enable the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 to commence work immediately. The number of Bills Committees in action should revert to 15, when the Bills Committee on Trade Descriptions (Amendment) Bill 2004 released its slot.

37. Mr Tommy CHEUNG, Mr LAU Kong-wah, Mr Jasper TSANG and Mr CHAN Kam-lam shared the views of the Chairman and Mr James TIEN. Mr Tommy CHEUNG, Mr LAU Kong-wah and Mr Jasper TSANG added that they were fully aware that providing an extra Bills Committee slot was only a temporary arrangement, when they voted on Mr James TIEN's proposal under agenda item III(a)(i).

38. Mr James TO, Mr LEE Cheuk-yan and Mr Albert CHENG said that such an arrangement had not been clearly explained to Members before Mr James TIEN's proposal to increase the quota of Bills Committees in action to 16 was put to vote. They added that the proposal should be put to vote again.

39. Mr James TIEN objected to the suggestion that the number of Bills committees in action should be maintained at 16 for a long period of time. Mr TIEN said that it was clear that his proposal was to provide an extra slot temporarily, in anticipation that a vacant slot would be available in the



Action

following week, after the Bills Committee on Trade Descriptions (Amendment) Bill 2005 had reported to the House Committee. He did not consider it necessary to put his proposal to vote again.

40. SG said that rule 21(a) of the House Rules (HR) stipulated that the maximum number of active Bills Committees was 15. SG added that if Members wished to increase the number of active Bills Committees to 16 for a long period of time, the rule would have to be amended.

41. Mr Jasper TSANG said that the maximum number of active Bills Committees should be maintained at 15, and should only be increased in special circumstances.

42. Mr Tommy CHEUNG said that he did not object to the Bills Committee on Smoking (Public Health) (Amendment) Bill 2005 be activated immediately. However, the Administration had not requested for priority for the scrutiny of this Bill.

43. Mr Albert CHENG said that Members could decide to give priority to the scrutiny of the Smoking (Public Health) (Amendment) Bill 2005. Mr CHENG suggested that the maximum number of active Bills Committees should be maintained at 16, until the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 completed its work.

44. In response to the Chairman, SG said that the LegCo Secretariat would have difficulties in coping with the additional workload, if the maximum number of active Bills Committees was maintained at 16 until the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 completed scrutiny of the Bill.

45. Mr James TO and Ms Emily LAU said that Mr Albert CHENG should withdraw his proposal, as the LegCo Secretariat would not be able to cope with the additional workload. Mr Albert CHENG withdrew his proposal.

46. The Chairman said that the number of active Bills Committees would revert to 15, after the Bills Committee on Trade Descriptions (Amendment) Bill 2004 had reported to the House Committee on 20 May 2005.

**(b) Legal Service Division report on subsidiary legislation gazetted on 6 May 2005 and tabled in Council on 11 May 2005**  
(*LC Paper No. LS 64/04-05*)

47. The Chairman said that a total of nine items of subsidiary legislation were gazetted on 6 May 2005 and tabled in Council on 11 May 2005.

Action

48. The Legal Adviser explained that the following four items of subsidiary legislation were introduced to amend a number of regulations made under the Road Traffic Ordinance (Cap. 374) –

- (a) Road Traffic (Safety Equipment) (Amendment) Regulation 2005 (L.N. 65);
- (b) Road Traffic (Traffic Control) (Amendment) Regulation 2005 (L.N. 66);
- (c) Road Traffic (Registration and Licensing of Vehicles) (Amendment) (No. 2) Regulation 2005 (L.N. 67); and
- (d) Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2005 (L.N. 68).

49. The Chairman added that the four Amendment Regulations were mainly to cater for floats parades which would be a regular event of the Hong Kong Disneyland.

50. Regarding the Road Traffic (Safety Equipment) (Amendment) Regulation 2005 (L.N. 65), the Legal Adviser said that the Legal Service Division was seeking clarification from the Administration whether there should be an express provision to stipulate clearly the nature of the relevant notice the Commissioner for Transport would publish in the Gazette concerning approved protective helmets. The Administration's reply was awaited.

51. Referring to the Road Traffic (Traffic Control) (Amendment) Regulation 2005 (L.N. 66), Mr LEE Cheuk-yan asked whether the exemption from the requirement that a driver of a vehicle on a road should not permit a passenger to travel in the vehicle, unless the passenger was seated in a properly constructed seat secured to the bodywork of the vehicle, would also apply to vehicles used in a mass procession. Mr LEE considered that such vehicles should also be regarded as floats and exempted from the requirement.

52. The Legal Adviser advised that a float, in relation to a parade, was defined as a vehicle decorated for the purpose of the parade. The question of whether the exemption would apply to vehicles used in a mass procession depended on whether a mass procession was regarded as a parade. The Legal Adviser added that the Legal Service Division was also seeking clarification from the Administration on certain technical issues, including the scope of the term "parade". The Administration's reply was awaited.

Action

53. Mr LEE Wing-tat suggested that the Legal Service Division should also refer Mr LEE Cheuk-yan's queries to the Administration for clarification.

54. Ms Margaret NG said that a subcommittee should be formed to study the four Amendment Regulations in detail.

55. The Chairman proposed that a subcommittee be formed to study the four items of subsidiary legislation. Members agreed. The following Members agreed to join: Mr LEE Cheuk-yan, Ms Margaret NG, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr Howard YOUNG, Ms Miriam LAU and Mr LEE Wing-tat.

56. The Legal Adviser recommended that a subcommittee be formed to study the International Organizations (Privileges and Immunities) (World Trade Organization) Order.

57. The Chairman proposed that a subcommittee be formed to study the Order. Members agreed. The following Members agreed to join: Mr LEE Cheuk-yan, Mr Martin LEE and Mr Andrew LEUNG.

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

59. The Chairman reminded Members that the deadline for amending these nine items of subsidiary legislation was 8 June 2005, or 29 June 2005 if extended by resolution.

**IV. Further business for the Council meeting on 18 May 2005**

**Questions**

*(LC Paper No. CB(3) 581/04-05)*

60. The Chairman said that three new questions would be raised by Mr LAU Kong-wah, Mr LI Kwok-ying and Mr Fred LI respectively at the Council meeting on 18 May 2005.

**V. Business for the Council meeting on 25 May 2005**

**(a) Questions**

*(LC Paper No. CB(3) 582/04-05)*

Action

61. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 25 May 2005.

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

62. The Chairman said that no notice had been received yet.

(c) **Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**

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**Chief Executive Election (Amendment) (Term of Office of the Chief Executive) Bill**

63. The Chairman said that the Bills Committee had reported to the House Committee on 6 May 2005.

(d) **Government motion**

64. The Chairman said that no notice had been received yet.

(e) **Member' Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**

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**Citibank (Hong Kong) Limited (Merger) Bill**

65. The Chairman said that the Bills Committee had reported to the House Committee on 6 May 2005.

(f) **Members' motions**

(i) **Motion on "The 4 June incident"**

*(Wording of the motion issued vide LC Paper No. CB(3) 592/04-05 dated 11 May 2005.)*

(ii) **Motion on "Regulating the handling of electronic wastes and promoting the electronic waste recycling industry"**

*(Wording of the motion issued vide LC Paper No. CB(3) 594/04-05 dated 12 May 2005.)*

66. The Chairman said that the above motions would be moved by Mr Albert HO and Mr KWONG Chi-kin respectively, and the wording of the motions had been issued to Members.

67. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 18 May 2005.

## **VI. Report of Bills Committees and subcommittees**

### **Report of the Subcommittee on Town Planning (Amendment) Ordinance 2004 (Commencement) Notice**

*(LC Paper No. CB(1) 1505/04-05)*

68. Mr Alan LEONG, Chairman of the Subcommittee, said that the Subcommittee had completed scrutiny of the Notice and supported the commencement of the Amendment Ordinance on 10 June 2005.

## **VII. Position on Bills Committees/subcommittees**

*(LC Paper No. CB(2) 1512/04-05)*

69. The Chairman said that there were 16 Bills Committees and 10 subcommittees in action.

## **VIII. Rule 2 of the House Rules**

*(Letter dated 9 May 2005 from Hon LEE Wing-tat to the Chairman of the House Committee (LC Paper No. CB(2) 1533/04-05(01) )*

70. Mr LEE Wing-tat said that HR 2 required the provision to the President of an advance copy of an intended address to be made by a Member under Rule 21(3), (4A) or (5) of the Rules of Procedure (RoP). Mr LEE further said that parliaments in other places did not have similar requirements. He could not accept that a Member should provide an advance copy of his intended address to the President for vetting.

71. Mr LEE recalled that the President had mentioned at the Council meeting on 4 May 2005 that if a Member queried the Administration in his address, this might provoke a debate which was not allowed under RoP. Mr LEE considered that the President could always order a Member to discontinue his address if its content was out of order, and needed not be given an advance copy of the Member's address. Mr LEE agreed that the matter should be referred to the Committee on Rules of Procedure (CRoP) for consideration.

Action

72. Ms Emily LAU and Ms Margaret NG agreed that CRoP should be invited to review HR 2. Ms Emily LAU suggested that members of CRoP should seek the views of their respective political parties or groupings, and reflect them to CRoP to facilitate its deliberation on the matter.

73. Mr Jasper TSANG, Chairman of CRoP, said that CRoP would study the matter. Mr TSANG further said that the requirement in HR 2 was to enable the President to decide whether the address would provoke a debate which was not permitted under Rule 21(6) of RoP. Mr TSANG added that Members were required to adhere to the wording of the oral questions as given in the relevant notice, when raising them at Council meetings.

74. The Chairman proposed that the matter be referred to CRoP for consideration. Members agreed.

**IX. Any other business**

75. There being no other business, the meeting ended at 3:50 pm.