

LEGISLATIVE COUNCIL

MINUTES

No. 12

Minutes of the meeting held on Wednesday 21 December 2005 at 11:00 am

Members present:

President

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

The Hon James TIEN Pei-chun, GBS, JP

The Hon Albert HO Chun-yan

Ir Dr the Hon Raymond HO Chung-tai, S.B.St.J., JP

The Hon LEE Cheuk-yan

The Hon Martin LEE Chu-ming, SC, JP

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

The Hon Fred LI Wah-ming, JP

Dr the Hon LUI Ming-wah, SBS, 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 Yuen-han, JP

The Hon Bernard CHAN, JP

The Hon CHAN Kam-lam, SBS, JP

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

The Hon LEUNG Yiu-chung
The Hon SIN Chung-kai, JP
Dr the Hon Philip WONG Yu-hong, GBS
The Hon WONG Yung-kan, JP
The Hon Jasper TSANG Yok-sing, GBS, JP
The Hon Howard YOUNG, SBS, JP
Dr the Hon YEUNG Sum
The Hon LAU Chin-shek, JP
The Hon LAU Kong-wah, JP
The Hon LAU Wong-fat, GBM, GBS, JP
The Hon Miriam LAU Kin-yee, GBS, JP
The Hon Emily LAU Wai-hing, JP
The Hon CHOY So-yuk, JP
The Hon Andrew CHENG Kar-foo
The Hon Timothy FOK Tsun-ting, GBS, JP
The Hon TAM Yiu-chung, GBS, JP
The Hon Abraham SHEK Lai-him, JP
The Hon LI Fung-ying, BBS, JP
The Hon Tommy CHEUNG Yu-yan, JP
The Hon Albert CHAN Wai-yip
The Hon Frederick FUNG Kin-kee, JP
The Hon Audrey EU Yuet-mee, SC, JP
The Hon Vincent FANG Kang, JP
The Hon WONG Kwok-hing, MH
The Hon LEE Wing-tat
The Hon LI Kwok-ying, MH
Dr the Hon Joseph LEE Kok-long

The Daniel LAM Wai-keung, BBS, JP
The Hon Jeffrey LAM Kin-fung, SBS, JP
The Hon MA Lik, GBS, JP
The Hon Andrew LEUNG Kwan-yuen, SBS, JP
The Hon Alan LEONG Kah-kit, SC
The Hon LEUNG Kwok-hung
Dr the Hon KWOK Ka-ki
Dr the Hon Fernando CHEUNG Chiu-hung
The Hon CHEUNG Hok-ming, SBS, JP
The Hon WONG Ting-kwong, BBS
The Hon Ronny TONG Ka-wah, SC
The Hon CHIM Pui-chung
The Hon Patrick LAU Sau-shing, SBS, JP
The Hon Albert Jinghan CHENG
The Hon KWONG Chi-kin
The Hon TAM Heung-man

Public officers attending:

The Hon Rafael HUI Si-yan, GBS, JP
The Chief Secretary for Administration

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

The Hon WONG Yan-lung, SC, JP
The Secretary for Justice

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

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

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 Stephen LAM Sui-lung, JP
Secretary for Constitutional Affairs

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

Dr the Hon York CHOW Yat-ngok, SBS, JP
Secretary for Health, Welfare and Food

Clerks in attendance:

Mr Ricky FUNG Choi-cheung, JP, Secretary General

Ms Pauline NG Man-wah, Assistant Secretary General (1)

Mrs Justina LAM CHENG Bo-ling, Assistant Secretary General (2)

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

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. Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2005 (gazetted on 16.12.2005)	224/2005
2. Legal Aid (Charge on Property) (Rate of Interest) Regulation (gazetted on 16.12.2005)	225/2005
3. Census and Statistics (2006 Population Census) Order (gazetted on 16.12.2005)	226/2005
4. Adoption (Amendment) Ordinance 2004 (Commencement) Notice (gazetted on 16.12.2005)	227/2005
5. Convention Adoption (Exclusion) Order (gazetted on 16.12.2005)	228/2005
6. Intercountry Adoption (Contracting States) Order (gazetted on 16.12.2005)	229/2005
7. Adoption (Amendment) Rules 2005 (gazetted on 16.12.2005)	230/2005
8. Convention Adoption Rules (gazetted on 16.12.2005)	231/2005
9. Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) (No. 2) Rules 2005 (gazetted on 16.12.2005)	232/2005
10. Road Traffic (Traffic Control) (Designation of Prohibited and Restricted Zones) (Amendment) Notice 2005 (gazetted on 16.12.2005)	233/2005

Other Papers

- No.42 - Occupational Safety and Health Council Annual Report 2004-2005 (published on 14.12.2005)
- No.43 - The Accounts of the Lotteries Fund 2004-05 (published on 15.12.2005)
- No.44 - Report of the Chinese Temples Committee on the administration of the General Chinese Charities Fund for the year ended 31 March 2005 (published on 15.12.2005)

- No.45 - Grantham Scholarships Fund
Annual Report for the year ended 31 August 2005
(published on 15.12.2005)
- No.46 - Report of the Chinese Temples Committee on the
administration of the Chinese Temples Fund for the
year ended 31 March 2005 (published on 15.12.2005)
- No.47 - The Sir Murray MacLehose Trust Fund
Trustee's Report for the period from 1 April 2004
to 31 March 2005 (published on 15.12.2005)
- No.48 - Report of the Brewin Trust Fund Committee on the
administration of the Fund for the year ended
30 June 2005 (published on 15.12.2005)
- No.49 - Secretary for Home Affairs Incorporated
Audited Statement of Accounts and Auditor's Report
for the year ended 31 March 2005 (published on
16.12.2005)
- No.50 - Report of the Board of Trustees for Sir Edward
Youde Memorial Fund for the period from 1 April
2004 to 31 March 2005 (published on 16.12.2005)
- No.51 - Hong Kong Housing Authority
Annual Report 2004/2005 (published on 19.12.2005)
- No.52 - Hong Kong Housing Authority
Financial Statements for the year ended 31 March
2005 (published on 19.12.2005)
- No.53 - Police Welfare Fund
Annual Report 2004/2005 (published on 19.12.2005)
- No.54 - Annual Report on the Police Children's Education
Trust and the Police Education and Welfare Trust
for the year 2004/2005 (published on 19.12.2005)
- Report of the Subcommittee to Study the Administration's
Proposals for the Methods for Selecting the Chief Executive in
2007 and for Forming the Legislative Council in 2008
(published on 19.12.2005)

Address

Hon TAM Yiu-chung, Chairman of the Subcommittee to Study the Administration's Proposals for the Methods for Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008, addressed the Council on the Subcommittee's Report.

Questions

1. Dr Hon LUI Ming-wah asked Question 1.

The Secretary for Health, Welfare and Food replied.

Six Members asked supplementaries and the Secretary for Health, Welfare and Food replied.

2. Hon LAU Wong-fat asked Question 2.

The Secretary for Security replied.

Nine Members asked supplementaries and the Secretary for Security replied.

3. Hon WONG Ting-kwong asked Question 3.

The Secretary for Security replied.

Nine Members asked supplementaries and the Secretary for Security replied.

4. Hon Martin LEE asked Question 4.

The Secretary for Constitutional Affairs replied.

11 Members asked supplementaries and the Secretary for Constitutional Affairs replied.

5. Hon Audrey EU asked Question 5.

The Secretary for Home Affairs replied.

10 Members asked supplementaries and the Secretary for Home Affairs replied.

6. Hon CHAN Kam-lam asked Question 6.

The Secretary for Housing, Planning and Lands replied.

Seven Members asked supplementaries. The Secretary for Security, the Secretary for Housing, Planning and Lands and the Secretary for the Environment, Transport and Works replied.

Written replies to Questions 7 to 19 were tabled for Members' information.

Motions

Government Motions

1. Motion on the Amendment to the Method for the Selection of the Chief Executive

The Secretary for Constitutional Affairs moved the following motion and addressed the Council:

Pursuant to Article 7 of Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (that is, amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval), the Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, and the Decision of the Standing Committee of the National People's Congress on Issues relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008, the "(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Regarding the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region" annexed to this Motion is hereby endorsed by this Council by a two-thirds majority of all Members, for submission to the Chief Executive for consent, and thence for reporting by the Chief Executive to the Standing Committee of the National People's Congress for approval.

Annex

**(Draft) Amendment to Annex I to the Basic Law
of the Hong Kong Special Administrative Region
of the People's Republic of China Regarding the
Method for the Selection of the Chief Executive of the
Hong Kong Special Administrative Region**

1. The Election Committee to elect the third term Chief Executive in 2007 shall be composed of 1 600 members from the following sectors:

Industrial, commercial and financial sectors	300
The professions	300
Labour, social services, religious and other sectors	300

Members of the Legislative Council, members of the District Councils, representatives of the Heung Yee Kuk, Hong Kong deputies to the National People's Congress, representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference	700
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The term of office of the Election Committee shall be five years.

2. Candidates for the office of Chief Executive may be nominated jointly by not less than 200 members of the Election Committee. Each member may nominate only one candidate.

Question on the motion proposed.

Hon MA Lik spoke on the motion. While he was speaking, the President left the chair at 1:31 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Another two Members and Hon LI Kwok-ying spoke on the motion.

At 2:05 pm, while Hon LI Kwok-ying was speaking, the President resumed the chair.

12 further Members and Hon Abraham SHEK spoke on the motion.

While Abraham SHEK was speaking, the President left the chair at 3:49 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Hon TAM Yiu-chung spoke on the motion. At 4:02 pm, while he was speaking, the President resumed the chair.

Six more Members spoke on the motion.

The Secretary for Constitutional Affairs replied.

Question on the motion put.

Dr Hon YEUNG Sum claimed a division. The President then ordered the Council to divide under Rule 47(1) of the Rules of Procedure.

The President announced that there were 60 Members present, 34 were in favour of the motion, 24 against it and one abstained. (Voting record in Appendix I.) Since the question was not agreed by a two-thirds majority of all the Members of the Council, she declared that the motion was negatived.

2. Motion on the Amendment to the Method for the Formation of the Legislative Council

The Secretary for Constitutional Affairs moved the following motion and addressed the Council:

Pursuant to Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (that is, amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for the record), the Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, and the Decision of the Standing Committee of the National People's Congress on Issues relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008, the "(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Regarding the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures" annexed to this Motion is hereby endorsed by this Council by a two-thirds majority of all Members, for submission to the Chief Executive for consent, and thence for reporting by the Chief Executive to the Standing Committee of the National People's Congress for the record.

Annex

(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Regarding the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures

The fourth term Legislative Council in the year 2008 shall be composed of 70 members, and the composition shall be as follows:

Members returned by functional constituencies 35
Members returned by geographical constituencies 35
through direct elections

Question on the motion proposed.

Seven Members and Hon Albert CHAN spoke on the motion.

While Hon Albert CHAN was speaking, the President left the chair at 7:06 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Another two Members and Hon CHIM Pui-chung spoke on the motion.

At 7:49 pm, while Hon CHIM Pui-chung was speaking, the President resumed the chair.

20 further Members spoke on the motion.

The Secretary for Constitutional Affairs replied.

Question on the motion put.

Dr Hon YEUNG Sum claimed a division. The President then ordered the Council to divide under Rule 47(1) of the Rules of Procedure.

The President announced that there were 60 Members present, 34 were in favour of the motion, 24 against it and one abstained. (Voting record in Appendix II.) Since the question was not agreed by a two-thirds majority of all the Members of the Council, she declared that the motion was negatived.

Next Meeting

The President declared that the next meeting of the Council would be held on 11 January 2006 at 11:00 am.

The Council was adjourned at 12:01 am on 22 December 2005.

(Mrs Rita FAN HSU Lai-tai)
President
16 January 2006

Council Chamber
Hong Kong

投票 VOTE: 1
 日期 DATE: 21/12/2005
 時間 TIME: 05:29:25 下午

動議 MOTION: 「修改行政長官產生辦法」議案
 MOTION "THE AMENDMENT TO THE METHOD FOR THE SELECTION OF THE CHIEF EXECUTIVE"

動議人 MOVED BY: 政制事務局局長 Secretary for Constitutional Affairs

出席 Present :60
 投票 Vote :59
 贊成 Yes :34
 反對 No :24
 棄權 Abstain :1
 結果 Result :否決 Negatived

個別表決如下 THE INDIVIDUAL VOTES WERE AS FOLLOWS:

議員	MEMBER	投票	VOTE	議員	MEMBER	投票	VOTE
范徐麗泰	Mrs Rita FAN	出席	PRESENT	鄭家富	Andrew CHENG	反對	NO
田北俊	James TIEN	贊成	YES	霍震霆	Timothy FOK	贊成	YES
何俊仁	Albert HO	反對	NO	譚耀宗	TAM Yiu-chung	贊成	YES
何鍾泰	Dr Raymond HO	贊成	YES	石禮謙	Abraham SHEK	贊成	YES
李卓人	LEE Cheuk-yan	反對	NO	李鳳英	LI Fung-ying	贊成	YES
李柱銘	Martin LEE	反對	NO	張宇人	Tommy CHEUNG	贊成	YES
李國寶	Dr David LI	贊成	YES	陳偉業	Albert CHAN	反對	NO
李華明	Fred LI	反對	NO	馮檢基	Frederick FUNG	反對	NO
呂明華	Dr LUI Ming-wah	贊成	YES	余若薇	Audrey EU	反對	NO
吳靄儀	Margaret NG	反對	NO	方剛	Vincent FANG	贊成	YES
周梁淑怡	Mrs Selina CHOW	贊成	YES	王國興	WONG Kwok-hing	贊成	YES
涂謹申	James TO	反對	NO	李永達	LEE Wing-tat	反對	NO
張文光	CHEUNG Man-kwong	反對	NO	李國英	LI Kwok-ying	贊成	YES
陳婉嫻	CHAN Yuen-han	贊成	YES	李國麟	Dr Joseph LEE	反對	NO
陳智思	Bernard CHAN	贊成	YES	林偉強	Daniel LAM	贊成	YES
陳鑑林	CHAN Kam-lam	贊成	YES	林健鋒	Jeffrey LAM	贊成	YES
梁劉柔芬	Mrs Sophie LEUNG	贊成	YES	馬力	MA Lik	贊成	YES
梁耀忠	LEUNG Yiu-chung	反對	NO	梁君彥	Andrew LEUNG	贊成	YES
單仲偕	SIN Chung-kai	反對	NO	梁家傑	Alan LEONG	反對	NO
黃宜弘	Dr Philip WONG	贊成	YES	梁國雄	LEUNG Kwok-hung	反對	NO
黃容根	WONG Yung-kan	贊成	YES	郭家麒	Dr KWOK Ka-ki	反對	NO
曾鈺成	TSANG Yok-sing	贊成	YES	張超雄	Dr Fernando CHEUNG	反對	NO
楊孝華	Howard YOUNG	贊成	YES	張學明	CHEUNG Hok-ming	贊成	YES
楊森	Dr YEUNG Sum	反對	NO	黃定光	WONG Ting-kwong	贊成	YES
劉千石	LAU Chin-shek	棄權	ABSTAIN	湯家驊	Ronny TONG	反對	NO
劉江華	LAU Kong-wah	贊成	YES	詹培忠	CHIM Pui-chung	贊成	YES
劉皇發	LAU Wong-fat	贊成	YES	劉秀成	Patrick LAU	贊成	YES
劉健儀	Miriam LAU	贊成	YES	Albert CHENG	ALBERT CHENG	反對	NO
劉慧卿	Emily LAU	反對	NO	鄭志堅	KWONG Chi-kin	贊成	YES
蔡素玉	CHOY So-yuk	贊成	YES	譚香文	TAM Heung-man	反對	NO

投票 VOTE: 2
 日期 DATE: 21/12/2005
 時間 TIME: 11:59:16 下午

動議 MOTION: 「修改立法會產生辦法」議案
 MOTION "THE AMENDMENT TO THE METHOD FOR THE FORMATION OF THE LEGISLATIVE COUNCIL"

動議人 MOVED BY: 政制事務局局長 Secretary for Constitutional Affairs

出席 Present :60
 投票 Vote :59
 贊成 Yes :34
 反對 No :24
 棄權 Abstain :1
 結果 Result :否決 Negatived

個別表決如下 THE INDIVIDUAL VOTES WERE AS FOLLOWS:

議員	MEMBER	投票	VOTE	議員	MEMBER	投票	VOTE
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田北俊	James TIEN	贊成	YES	霍震霆	Timothy FOK	贊成	YES
何俊仁	Albert HO	反對	NO	譚耀宗	TAM Yiu-chung	贊成	YES
何鍾泰	Dr Raymond HO	贊成	YES	石禮謙	Abraham SHEK	贊成	YES
李卓人	LEE Cheuk-yan	反對	NO	李鳳英	LI Fung-ying	贊成	YES
李柱銘	Martin LEE	反對	NO	張宇人	Tommy CHEUNG	贊成	YES
李國寶	Dr David LI	贊成	YES	陳偉業	Albert CHAN	反對	NO
李華明	Fred LI	反對	NO	馮檢基	Frederick FUNG	反對	NO
呂明華	Dr LUI Ming-wah	贊成	YES	余若薇	Audrey EU	反對	NO
吳靄儀	Margaret NG	反對	NO	方剛	Vincent FANG	贊成	YES
周梁淑怡	Mrs Selina CHOW	贊成	YES	王國興	WONG Kwok-hing	贊成	YES
涂謹申	James TO	反對	NO	李永達	LEE Wing-tat	反對	NO
張文光	CHEUNG Man-kwong	反對	NO	李國英	LI Kwok-ying	贊成	YES
陳婉嫻	CHAN Yuen-han	贊成	YES	李國麟	Dr Joseph LEE	反對	NO
陳智思	Bernard CHAN	贊成	YES	林偉強	Daniel LAM	贊成	YES
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劉江華	LAU Kong-wah	贊成	YES	詹培忠	CHIM Pui-chung	贊成	YES
劉皇發	LAU Wong-fat	贊成	YES	劉秀成	Patrick LAU	贊成	YES
劉健儀	Miriam LAU	贊成	YES	鄭經翰	Albert CHENG	反對	NO
劉慧卿	Emily LAU	反對	NO	鄭志堅	KWONG Chi-kin	贊成	YES
蔡素玉	CHOY So-yuk	贊成	YES	譚香文	TAM Heung-man	反對	NO

秘書 CLERK