

立法會

*Legislative Council*

LC Paper No. CB(2) 1608/06-07

Ref : CB2/H/5/06

**House Committee of the Legislative Council**

**Minutes of the 20th meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 13 April 2007**

**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, SBS, S.B.St.J., JP  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Dr Hon LUI Ming-wah, SBS, 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, GBS, JP  
Hon CHAN Kam-lam, SBS, JP  
Hon LEUNG Yiu-chung  
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 Kong-wah, JP  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk, 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, SBS, 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, JP  
Dr Hon Joseph LEE Kok-long, JP  
Hon Daniel LAM Wai-keung, SBS, JP  
Hon Jeffrey LAM Kin-fung, SBS, 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  
Prof 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 Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon LAU Chin-shek, JP  
Hon Andrew CHENG Kar-foo  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon MA Lik, GBS, JP  
Hon CHIM Pui-chung

**Clerk in attendance :**

Mrs Vivian KAM 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
Mrs Justina LAM	Assistant Secretary General 3
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Ms Emily PANG	Acting Chief Public Information Officer

Mrs Sharon TONG	Chief Council Secretary (2)1
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Mr Timothy TSO	Assistant Legal Adviser 2
Ms Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Mr KAU Kin-wah	Assistant Legal Adviser 6
Ms Amy YU	Senior Council Secretary (2)3

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**I. Confirmation of the minutes of the 19th meeting held on 23 March 2007**  
(LC Paper No. CB(2) 1531/06-07)

The minutes were confirmed.

**II. Matters arising**

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

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2. The Chairman said that there was nothing special to report.

3. In response to Ms Margaret NG's enquiry, the Chairman explained that the main purpose of her meetings with CS was to brief him about the House Committee's discussions and decisions which should be brought to his attention. The meetings were also attended by the Deputy Chairman. The Chairman further said that she would report to Members should CS make any comments or provide any information during their meetings.

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

Legal Service Division report on subsidiary legislation gazetted on 23 March 2007 and tabled in Council on 28 March 2007

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(LC Paper No. LS 52/06-07)

(Letter dated 2 April 2007 from Hon LEE Wing-tat to the Chairman of the House Committee (LC Paper No. CB(2)1565/06-07(01))

4. The Chairman said that a total of eight items of subsidiary legislation and a Technical Memorandum on Procedures and Methods for Sampling and Analysis of Trade Effluents made under the Sewage Services Ordinance were gazetted on 23 March 2007 and tabled in Council on 28 March 2007.

Action

5. Regarding the Sewage Services (Sewage Charge) (Amendment) Regulation 2007 and the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2007, the Chairman said that the Regulations would come into operation on 1 July 2007. She referred Members to Mr LEE Wing-tat's letter which suggested the formation of a subcommittee to study the two Regulations and an extension of their scrutiny period due to expire on 25 April 2007.

6. Mr LEE Wing-tat said that he considered the setting up of a subcommittee necessary as the Regulations would have far-reaching implications. The Sewage Services (Sewage Charge) (Amendment) Regulation 2007 sought to increase the rate of sewage charge over a period of 10 years, while the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2007 would impact on the trades concerned. Mr LEE added that as the Regulations were subject to negative vetting, he proposed to extend their scrutiny period to allow more time for scrutiny.

7. The Chairman proposed that a subcommittee be formed to study the two Regulations and the Technical Memorandum in detail. Members agreed. The following Members agreed to join: Mr SIN Chung-kai, Ms Miriam LAU, Ms Emily LAU, Miss CHOY So-yuk (as advised by Mr LAU Kong-wah), Mr Tommy CHEUNG, Ms Audrey EU and Mr LEE Wing-tat.

8. The Chairman proposed that the motion to extend the scrutiny period of the two Regulations and the Technical Memorandum be moved by the Deputy Chairman as she would not be in Hong Kong to attend the Council meeting on 25 April 2007. Members agreed.

9. Regarding the Road Traffic (Disabled Person's Parking Permit - Simplification of Application and Renewal Procedures) Regulation 2007, Dr Fernando CHEUNG said that the coverage of the Regulation was too narrow and considered that a subcommittee should be formed to explore the feasibility of extending the proposed arrangements to the able-bodied.

10. The Chairman responded that Dr CHEUNG's concern was a policy issue which should be raised at the Panel on Transport. The Legal Adviser concurred with the Chairman's view. Dr CHEUNG also agreed.

11. Members did not raise any queries on the other five items of subsidiary legislation.

12. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 25 April 2007.

Action

**IV. Legal Service Division report on subsidiary legislation gazetted on 30 March 2007**

*(LC Paper No. LS 55/06-07)*

13. The Chairman said that two items of subsidiary legislation were gazetted on 30 March 2007.

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

15. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 16 May 2007.

**V. Legal Service Division report on subsidiary legislation gazetted on 4 April 2007**

*(LC Paper No. LS 57/06-07)*

16. The Chairman said that only one item of subsidiary legislation, i.e. the Human Reproductive Technology (Licensing) Regulation, was gazetted on 4 April 2007.

17. The Chairman further said that the Legal Service Division had written to the Administration to clarify some legal and drafting points on the Regulation, and was still awaiting the Administration's reply.

18. The Chairman added that should Members decide to form a subcommittee to study the Regulation, the subcommittee might study also the Human Reproductive Technology (Fees) Regulation gazetted on 13 April 2007 and which was related to the (Licensing) Regulation.

19. Members did not raise any queries on the (Licensing) Regulation.

20. The Chairman reminded Members that the deadline for amending the (Licensing) Regulation was 16 May 2007.

**VI. Business for the Council meeting on 18 April 2007**

**(a) Questions**

*(LC Paper No. CB(3) 463/06-07)*

21. The Chairman said that 20 written questions had been scheduled for the meeting.

Action

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

- (i) **Patents (Amendment) Bill 2007**
- (ii) **Import and Export (Amendment) Bill 2007**
- (iii) **Tsing Sha Control Area Bill**
- (iv) **Energy Efficiency (Labelling of Products) Bill**

22. The Chairman said that the Administration had given notice to present the four Bills to the Council on 18 April 2007. The House Committee would consider the Bills at its meeting on 20 April 2007.

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

**Appropriation Bill 2007**  
(Response by the Administration)

23. The Chairman said that the Administration would respond to Members' comments on the Appropriation Bill 2007.

(d) **Government motion**

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

**VII. Business for the Council meeting on 25 April 2007**

(a) **Questions**

*(LC Paper No. CB(3) 464/06-07)*

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

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

- (i) **Civil Justice (Miscellaneous Amendments) Bill 2007**
- (ii) **Statute Law (Miscellaneous Provisions) Bill 2007**

26. The Chairman said that the Administration had given notice to present the two Bills to the Council on 25 April 2007. The House Committee would consider the Bills at its meeting on 27 April 2007.

Action

(c) **Government motion**

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

(d) **Members' motions**

(i) **Motion on "Overseas experience in air quality control, management of municipal solid waste, renewable energy and total water management"**

*(Wording of the motion issued vide LC Paper No. CB(3) 427/06-07 dated 14 March 2007.)*

(ii) **Motion to be moved by Hon Albert HO Chun-yan**

*(Wording of the motion issued vide LC Paper No. CB(3) 470/06-07 dated 12 April 2007.)*

28. The Chairman said that the subject of the motion to be moved by Mr Albert HO was "Protecting the right of the Chinese victims to demand compensation from Japan".

29. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 18 April 2007.

**VIII. Report of Bills Committees and subcommittees**

(a) **Report of the Bills Committee on Building Management (Amendment) Bill 2005**

*(LC Paper No. CB(2) 1535/06-07)*

30. Mr James TO, Chairman of the Bills Committee, said that the Bill had far-reaching implications as it proposed significant changes to the management of private buildings in areas such as the formation and operation of owners' corporations, the appointment procedures of management committees, the rights of property owners and the duties of managers.

31. Mr TO further said that the Bills Committee had held 51 meetings and considered the views of the public, relevant organizations and the subcommittee previously appointed to examine the review of the Building Management Ordinance. In response to the views and suggestions of the Bills Committee, the Administration had agreed to make amendments to the proposals in the Bill. The Bills Committee supported the Committee Stage amendments (CSAs) to be moved by the Administration.

32. Mr TO added that Mr WONG Kwok-hing would separately move CSAs relating to the time limit for the outgoing manager appointed by an owners' corporation to deliver properties or records.

Action

33. Mr TO also said that upon the enactment of the Bill, the Administration would take a series of follow-up actions, including the making of subsidiary legislation in respect of, amongst others, the issue of mandatory requirement on owners' committees and managers to procure third party risks insurance. The Administration would also launch extensive publicity on the proposals in the Bill, and the relevant Panel would follow up on such publicity efforts and the implementation of the proposals.

34. The Chairman said that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 25 April 2007.

35. The Chairman reminded members that the deadline for giving notice of CSAs was Monday, 16 April 2007.

**(b) Report of the Bills Committee on Accreditation of Academic and Vocational Qualifications Bill**

*(LC Paper No. CB(2) 1533/06-07)*

36. Mr TAM Yiu-chung, Chairman of the Bills Committee, referred Members to the report and said that the Bills Committee had held 21 meetings and had received views from the relevant organizations.

37. Mr TAM further said that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 2 May 2007 and would not propose any CSAs.

38. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 21 April 2007.

**(c) Report of the Bills Committee on Employment (Amendment) Bill 2006**

*(LC Paper No. CB(2) 1541/06-07)*

39. Mr KWONG Chi-kin, Chairman of the Bills Committee, referred Members to the report and said that the Bills Committee had held six meetings and had discussed in-depth the modes of calculating statutory entitlements for employees, including the simplification of such calculation methods. The Administration would move CSAs to address areas of concern raised by members.

40. Mr KWONG added that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 2 May 2007 and would not propose any CSAs.



Action

41. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 21 April 2007.

**(d) Report of the Bills Committee on Shenzhen Bay Port Hong Kong Port Area Bill**

*(LC Paper No. CB(2) 1534/06-07)*

42. Mr LAU Kong-wah, Chairman of the Bills Committee, said that the Bills Committee sought to declare an area in the Shenzhen Bay Port on the Mainland as the Shenzhen Bay Port Hong Kong Port Area, and to apply the laws of Hong Kong in the Hong Kong Port Area.

43. Mr LAU further said that the Bills Committee had held 16 meetings since 1 March 2007. It had met with the Hong Kong Bar Association and had discussed with the Hong Kong Federation of Insurers (HKFI) the extension of territorial limit of pre-existing insurance policies relating to the mandatory motor vehicle third party risks insurance. The Bills Committee had also conducted a visit to the proposed Hong Kong Port Area at the Shenzhen Bay Port.

44. Mr LAU added that during the deliberations of the Bills Committee, members had expressed concern about various issues, including the impact on motor vehicle third party risks insurance policies in existence before the Hong Kong Port Area came into operation. Referring Members to the letter tabled at the meeting from the Secretary for Security to the Bills Committee, Mr LAU pointed out that HKFI had advised that all the insurance companies that provided motor vehicle third party risks insurance in Hong Kong had indicated their willingness to participate in a market agreement to extend the coverage of such policies to include the Hong Kong Port Area.

45. Mr LAU also said that the Bills Committee had raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting on 25 April 2007. He added that Mr James TO had expressed reservations about the date for reporting to the House Committee and the date of resumption, and was considering proposing CSAs to the Bill relating to the issue of insurance coverage.

46. Mr James TO said that he noted the latest information concerning the willingness of all insurance companies to participate in the market agreement. However, he remained concerned that since individual policyholders were not parties to the market agreement, it was questionable whether the market agreement could be enforced statutorily, in particular on liquidators of insurance companies or third parties. Mr TO further said that to remove any doubt about enforceability, he would propose CSAs to the Bill to the effect that the insurance coverage of the relevant policies would automatically include the Hong Kong Port Area. Mr TO appealed to Members to carefully consider and support his proposed amendments.

Action

47. Mr TO added that while he would not object to the resumption of the Second Reading debate on the Bill, he considered it more appropriate for the Bills Committee to hold one or two more meetings to further discuss the issue of insurance coverage.

48. Ms Margaret NG expressed regret about several aspects of the Bill. She said that the Bill was unprecedented in that its intended extent was geographically outside the boundary of the Hong Kong Special Administrative Region (HKSAR), and it was doubtful whether the Legislative Council (LegCo) had the legislative competence to enact such a bill.

49. Ms NG elaborated that the Hong Kong Bar Association and the Administration had divergent views on the status of the decision made by the Standing Committee of the National People's Congress (NPCSC) on 31 October 2006 that HKSAR was authorised to exercise jurisdiction over the Hong Kong Port Area (NPCSC's Decision). The Bar Association was of the view that the NPCSC's Decision did not qualify as a national law under Article 18 of the Basic Law. On the other hand, the Administration held the view that while the NPCSC's Decision was a national law, there was no need to include it in Annex III to the Basic Law as the provisions of Article 18 had to be interpreted in the light of Article 20 of the Basic Law. Ms NG stressed that should the constitutional basis of the Bill be challenged in future, the rights of many people would be adversely affected. She expressed regret that there had not been full and open discussion on the issue which was of constitutional importance. She also expressed reservations about clause 6 of the Bill concerning land in the Hong Kong Port Area.

50. Ms Emily LAU pointed out that the Bills Committee had to complete scrutiny of the Bill within five weeks during which 16 meetings had been held. She expressed dissatisfaction about the insufficient time given to LegCo, and the public, to consider the Bill which was unprecedented in nature. Ms LAU opined that the scrutiny of such an important Bill should not have been so hasty. Should any issue of importance be missed out in the scrutiny process, the consequence would be detrimental and LegCo could not be answerable to members of the public.

51. Ms Emily LAU shared Ms Margaret NG's concern about the constitutional basis of the NPCSC's Decision. She was concerned that the handling of the matter would set a precedent for a national law to be implemented in Hong Kong without its inclusion in Annex III to the Basic Law, thereby creating a loophole in respect of Article 18 of the Basic Law.

52. Ms LAU also said that the public transport interchange in the Hong Kong Port Area was too small, and the provision of complementary transport facilities was far from adequate. She drew Members' attention to the adverse impact on traffic in the north-western part of the New Territories (NT), in particular on the Tuen Mun Road, with the commissioning of the Shenzhen

Action

Bay Bridge. Ms LAU referred to a motion passed by LegCo in March 2006 urging the Administration to formulate as soon as possible strategies to improve the traffic arrangements in the western and north-western parts of NT. She was disappointed that the Administration had not taken on board any of the proposals put forward by Members.

53. Mr James TO shared the concern and views of Ms Emily LAU about the insufficient time made available to LegCo to scrutinise the Bill and the detrimental consequence of any issue of importance being overlooked. Mr TO said that this was not the first time LegCo had to complete the scrutiny of an important piece of legislation within a tight schedule as a result of the late introduction of the bills by the Administration. He questioned whether it was deliberate on the part of the Administration.

54. The Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 16 April 2007.

**IX. Position on Bills Committees and subcommittees**

*(LC Paper No. CB(2) 1532/06-07)*

55. The Chairman said that there were nine Bills Committees and six subcommittees under the House Committee in action.

56. The Chairman invited Members to note that the Bills Committee on Race Discrimination Bill would have to work beyond three months since its commencement.

57. Ms Margaret NG, Chairman of the Bills Committee on Race Discrimination Bill, said that the Bills Committee had to work beyond three months because of the complexity of the Bill.

**X. Any other business**

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