

立法會
Legislative Council

LC Paper No. CB(2) 1198/07-08

Ref : CB2/H/5/07

House Committee of the Legislative Council

**Minutes of the 14th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 22 February 2008**

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
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 David LI Kwok-po, GBM, GBS, 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, SBS, JP
Hon Bernard CHAN, GBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum, JP
Hon LAU Chin-shek, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Albert CHAN Wai-yip

Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Constance LI	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Mr Andy LAU	Chief Council Secretary (1)2
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
Miss Monna LAI	Assistant Legal Adviser 7
Ms Amy YU	Senior Council Secretary (2)3
Mr Arthur KAN	Legislative Assistant (2)7

Action

I. Confirmation of the minutes of the 13th meeting held on 15 February 2008
(*LC Paper No. CB(2) 1118/07-08*)

The minutes were confirmed.

II. Matters arising

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

Number of Bills Committee slots

2. The Chairman said that she had informed CS that there were currently two vacant Bills Committee slots. Noting that five bills were due to be introduced into the Legislative Council (LegCo), she had also informed CS that should the number of Bills Committees formed to study the Bills exceed the number of vacant Bills Committee slots, some of the newly formed Bills Committees would have to be put on the waiting list. CS had confirmed that apart from proposed legislation in connection with the Budget, the Bills stated in the Administration proposed priority list for scrutiny of bills would be the last batch which would be introduced within the current session.

3. In response to Ms Margaret NG's enquiry, the Chairman said that of the 15 Bills on the Administration's Legislative Programme for 2007-2008, 13 had already been introduced into the Council. The remaining two Bills which would not be introduced in the current legislative session were the Nuclear Material (Liability for Carriage) (Amendment) Bill and the Public Health and Municipal Services (Amendment) Bill.

Action

Attendance of CS at special House Committee meeting

4. The Chairman further said that she had enquired whether CS had decided on a date to attend a House Committee meeting so as to exchange views with Members. She had suggested that an appropriate time might be the latter part of March. CS had responded that he would let her have a proposed date as quickly as possible.

5. Ms Emily LAU said that the main purpose of special House Committee meetings was for Members to exchange views with CS. CS should not be accompanied by bureau secretaries to the meetings. She considered it unsatisfactory for the bureau secretaries to answer most of the questions from Members at the last special House Committee meeting. She seemed to recall that most of the special meetings held in the past were attended by CS only. She requested the Chairman to relay her views to CS.

6. The Chairman said that CS was aware of Members' view in this regard. She advised that according to past records, CS had been accompanied by bureau secretaries at most of the special House Committee meetings held in the past. She also noted that bureau secretaries spoke most of the time at the last special meeting.

III. Business arising from previous Council meetings

(a) Legal Service Division report on bills referred to the House Committee in accordance with Rule 54(4)

(Letter dated 13 February 2008 from the Director of Administration on "Proposed Order of Priority in the Scrutiny of Bills" (LC Paper No. CB(2) 1123/07-08(01))

7. The Chairman said that five Bills were introduced into LegCo on 20 February 2008. The Director of Administration had written to propose an order of priority for scrutiny for Members' consideration, should the number of Bills Committees which Members decided to set up exceed the current number of vacant Bills Committee slots. She would invite Members to consider the proposed order later.

(i) Statute Law (Miscellaneous Provisions) Bill 2008
(LC Paper No. LS 48/07-08)

8. The Chairman said that the Bill sought to provide for miscellaneous amendments to various Ordinances and for connected purposes. The Panel on Administration of Justice and Legal Services had been briefed on the legislative proposals at its meetings on 24 April, 23 October and 27 November 2006, and 26 November 2007.

Action

9. Ms Margaret NG considered it necessary to form a Bills Committee to study the Bill.

10. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr Martin LEE, Ms Margaret NG and Mr Ronny TONG.

(ii) Fixed Penalty (Smoking Offences) Bill
(LC Paper No. LS 47/07-08)

11. The Chairman said that the Bill sought to provide for a fixed penalty to be payable for certain offences in contravention of the Smoking (Public Health) Ordinance.

12. The Chairman added that the Panel on Health Services had been consulted on the legislative proposals at its meeting on 1 June 2007. Whilst members in general supported the proposals, they had expressed concern on a number of issues.

13. Mr Tommy CHEUNG considered it necessary to form a Bills Committee to study the Bill.

14. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr Martin LEE, Mr Andrew CHENG (as advised by Mr Fred LI), Mr Tommy CHEUNG, Mr Vincent FANG, Mr LI Kwok-ying, Dr Joseph LEE and Dr KWOK Ka-ki.

(iii) West Kowloon Cultural District Authority Bill
(LC Paper No. LS 51/07-08)

15. The Chairman said that the Bill sought to establish the West Kowloon Cultural District Authority in connection with the development of the West Kowloon Cultural District site. The Subcommittee on West Kowloon Cultural District Development had discussed the legislative proposals, and members had expressed concern on various issues.

16. Miss CHOY So-yuk considered it necessary to form a Bills Committee to study the Bill.

17. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Ms Margaret NG, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr SIN Chung-kai, Ms Emily LAU, Miss CHOY So-yuk, Mr Abraham SHEK, Ms Audrey EU, Mr Jeffrey LAM and Mr Andrew LEUNG.

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(iv) Air Pollution Control (Amendment) Bill 2008

(LC Paper No. LS 45/07-08)

18. The Chairman said that the Bill sought to establish a legal framework to regulate the emission of sulphur dioxide, nitrogen oxides and respirable suspended particulates of the power plants.

19. Ms Audrey EU considered it necessary to form a Bills Committee to study the Bill.

20. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr SIN Chung-kai, Ms Emily LAU, Miss CHOY So-yuk and Ms Audrey EU.

(v) Road Traffic Legislation (Amendment) Bill 2008

(LC Paper No. LS 46/07-08)

21. The Chairman said that the Bill sought to make various amendments to the Road Traffic Ordinance, the Road Traffic (Driving Licences) Regulations and the Road Traffic (Driving-offence Points) Ordinance.

22. The Chairman added that the Panel on Transport had been consulted on the legislative proposals at its meeting on 18 December 2007. While members generally supported the proposals, they had expressed concern on a number of issues. The proposed introduction of a pre-screening device for random breath tests to deter drink driving was controversial.

23. Ms Audrey EU considered it necessary to form a Bills Committee to study the Bill.

24. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr James TIEN, Ms Miriam LAU and Mr Andrew CHENG (as advised by Mr CHEUNG Man-kwong).

The Administration's proposed order of priority in the scrutiny of Bills

25. The Chairman said that as five Bills Committees were formed to study the above Bills and had exceeded the current number of two vacant Bills Committee slots, she invited Members' views on the Administration's proposed order of priority in the scrutiny of Bills set out in the Director of Administration's letter as follows –

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- (i) West Kowloon Cultural District Authority Bill;
- (ii) Road Traffic Legislation (Amendment) Bill 2008;
- (iii) Air Pollution Control (Amendment) Bill 2008;
- (iv) Fixed Penalty (Smoking Offences) Bill; and
- (v) Statute Law (Miscellaneous Provisions) Bill 2008.

26. Dr KWOK Ka-ki considered that there was urgency in enacting the Fixed Penalty (Smoking Offences) Bill after the coming into operation of the Smoking (Public Health) Ordinance. He further said that the Bill was not controversial.

27. The Chairman said that as there were two vacant Bills Committee slots, should members agree to the Administration's preferred priority, the Bills Committees formed to study the West Kowloon Cultural District Authority Bill and the Road Traffic Legislation (Amendment) Bill 2008 respectively could commence work immediately. She pointed out that some Bills Committees currently in operation would soon complete their scrutiny work and submit their reports to the House Committee.

28. Ms Margaret NG said that the Bills Committee on Mainland Judgments (Reciprocal Enforcement) Bill chaired by her had largely completed its scrutiny work and had only a few outstanding issues to tackle before reporting to the House Committee.

29. Mr LAU Kong-wah expressed support for according priority to the scrutiny of the West Kowloon Cultural District Authority Bill and the Road Traffic Legislation (Amendment) Bill 2008, in view of their complexity and urgency in enactment. He considered it necessary to start the scrutiny work early.

30. The Chairman said that it was the Administration's target to enact all the five Bills within the current session.

31. While agreeing that the first two priorities be given to the scrutiny of the West Kowloon Cultural District Authority Bill and the Road Traffic Legislation (Amendment) Bill 2008, Dr KWOK Ka-ki hoped that the Fixed Penalty (Smoking Offences) Bill would be accorded the third priority instead of the fourth as proposed by the Administration, to enable the early implementation of the proposed fixed penalty system. He reiterated that the Bill was not controversial.

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32. Mr Tommy CHEUNG said that while he did not object to the Fixed Penalty (Smoking Offences) Bill, he considered that there was no urgency in enacting it as the Smoking (Public Health) Ordinance had provisions for penalties for smoking offences. The objective of introducing the proposed fixed penalty system was to reduce the time required for prosecution proceedings under the existing arrangements. Its introduction or not would not affect enforcement. Mr CHEUNG further pointed out that as the Bill was not controversial, there would be sufficient time for the Bills Committee to complete scrutiny even if it commenced its work later. He reckoned, however, that the Bills Committee would still need some time to scrutinize the details of the legislative proposals.

33. At the invitation of the Chairman, Assistant Secretary General 2 (ASG2) informed Members that apart from the Bills Committee on Mainland Judgments (Reciprocal Enforcement) Bill, two other Bills Committees, namely the Bills Committee on Legislative Council (Amendment) Bill 2007 and the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2007, might also complete their work and report to the House Committee in March 2008. However, as both Bills Committees had scheduled a further meeting, whether they could conclude deliberations would depend on the progress of scrutiny.

34. Mr Martin LEE considered that the Fixed Penalty (Smoking Offences) Bill should be scrutinized first, since it was not controversial and the Bills Committee would be able to complete its work within a short time and vacate its slot for the activation of another Bills Committee on the waiting list.

35. Ms Audrey EU said that the Bills Committee on Energy Efficiency (Labelling of Products) Bill had already completed a clause-by-clause examination of the Bill. Hopefully, it would complete its scrutiny work after considering the Administration's proposed Committee Stage amendments at its upcoming meeting on 3 March 2008.

36. The Chairman said that a number of Bills Committees were expected to complete work soon, and vacant slots would be made available for the activation of the Bills Committees on the waiting list.

37. Members agreed to the Administration's proposed priority in the scrutiny of Bills. The Chairman said that as there were two vacant slots, the Bills Committees formed to study the West Kowloon Cultural District Authority Bill and the Road Traffic Legislation (Amendment) Bill 2008 could commence work immediately.

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- (b) **Legal Service Division report on subsidiary legislation gazetted on 15 February 2008 and tabled in Council on 20 February 2008**
(*LC Paper No. LS 50/07-08*)

38. The Chairman said that a total of five items of subsidiary legislation, including four Commencement Notices, were gazetted on 15 February 2008 and tabled in the Council on 20 February 2008.

39. Members did not raise any queries on these five items of subsidiary legislation.

40. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 12 March 2008.

IV. Further business for the Council meeting on 27 February 2008

Questions

(*LC Paper No. CB(3) 398/07-08*)

41. The Chairman said that Mr LEE Wing-tat had replaced his written question.

V. Business for the Council meeting on 5 March 2008

(a) **Questions**

(*LC Paper No. CB(3) 399/07-08*)

42. 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**

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

(c) **Government motion**

Proposed resolution to be moved by the Secretary for Financial Services and the Treasury under the Public Finance Ordinance

(*Wording of the proposed resolution issued vide LC Paper No. CB(3) 387/07-08 dated 14 February 2008.*)

(*LC Paper No. LS 52/07-08*)

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44. The Chairman said that the proposed resolution was for seeking funds on account to enable the Government to carry on existing services between the start of the financial year on 1 April 2008 and the enactment of the Appropriation Ordinance 2008.

45. The Chairman further said that the aggregate total sum sought under all heads was fixed at \$90,989,010,000 this year and could not be exceeded without the approval of LegCo. The sum sought last year was \$55,269,264,000.

46. Ms Emily LAU enquired about the reasons for the significant increase in the amount of funds on account sought for this year as compared to last year and for setting the maximum percentage in respect of an Operating Account Recurrent subhead at 20%. She pointed out that in some overseas legislatures, the amount of funds on account was equivalent to the government's expenditure for three calendar months. She noted that the Panel on Financial Services had not been consulted on the proposed resolution, and was concerned how LegCo could follow up the matter.

47. At the invitation of the Chairman, ASG2 explained that it was the Administration's established practice to set the maximum percentage in respect of an Operating Account Recurrent subhead at 20%. A higher percentage would apply to an Operating Account Non-Recurrent subhead or Capital Account subhead, as pointed out in the Legal Service Division report. The \$90 billion sought for this year was determined on the basis of the Estimates of Expenditure 2008-2009. She further said that in the Parliament of the United Kingdom, the amount of funds on account was equivalent to the government's expenditure for three calendar months. She pointed out that three months' expenditure was higher than 20%.

48. In response to Ms Emily LAU, ASG2 further said that the increase in the amounts of funds on account sought for this year was not necessarily due to an increase in the Government's non-recurrent expenditure. As the amount of funds was determined on the basis of the Estimates of Expenditure 2008-2009, details would only be known after the said Estimates of Expenditure was laid before the Council by the Financial Secretary on 27 February 2008.

49. In response to Ms Emily LAU's concern on how LegCo could follow up the matter, the Chairman said that a subcommittee could be formed to study the proposed resolution. According to past practice, the Administration would be requested to withdraw its notice for moving the resolution should a subcommittee be formed. The Chairman asked the Legal Adviser whether the proposed resolution was time-critical.

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50. The Legal Adviser said that the House Committee might appoint a subcommittee to consider an item of subsidiary legislation. The proposed resolution was intended to have effect on 1 April 2008. Should Members decide to form a subcommittee to study the proposed resolution and should the Administration be requested to withdraw its notice for moving the resolution at the Council meeting on 5 March 2008, the Administration would have to give a fresh notice for moving the resolution at another Council meeting before 1 April 2008.

51. The Chairman said that apart from the Council meeting on 5 March 2008, there would only be one other Council meeting in March, i.e. on 12 March 2008.

52. Mr James TO said that the Administration should be requested to provide information to clarify Members' queries. Should Members consider the information fail to address their concerns, they could move an amendment to the proposed resolution to adjust downwards the amount sought, although he was not sure if Members could move such a motion. In the most extreme situation, Members could vote down the proposed resolution at the Council meeting on 5 March 2008.

53. Mr James TO further said that if a subcommittee was formed to examine the proposed resolution, to allow more time for scrutiny and to meet the deadline for giving notice of amendment, the proposed resolution could be moved a week later at the Council meeting on 12 March 2008. The subcommittee could work against this time-frame. Although it was the established practice to request the Administration to withdraw the notice for moving a proposed resolution should Members decide to form a subcommittee to study the resolution, having regard to the fact that the proposed resolution was time-critical, Members could consider not to request the Administration to withdraw the notice for moving it even if a subcommittee was formed. Mr TO added that he had no strong view on the manner for following up the matter by either the formation of a subcommittee or the request of written information from the Administration.

54. Mr SIN Chung-kai said that the setting up of a subcommittee might not be necessary if written information provided by the Administration could clarify Members' queries.

55. Ms Emily LAU considered it necessary to form a subcommittee. She also said that the Administration should be reminded to provide sufficient time for LegCo to complete the due process in making any legislative proposals.

Action

56. The Chairman proposed that a subcommittee be formed to study the proposed resolution in detail. Members agreed. The following Members agreed to join: Mr James TO, Mr SIN Chung-kai and Ms Emily LAU.

57. Members also agreed that as an exceptional arrangement, the Administration would not be requested to withdraw the notice for moving the proposed resolution.

58. Secretary General added that the Administration could withdraw the notice at any time.

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

The English Schools Foundation (Amendment) Bill 2007

59. The Chairman said that the Bills Committee on the above Bill had presented its report to the House Committee at the last meeting, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

60. Mr Abraham SHEK said that he would defer the resumption of the Second Reading debate on the Bill to the Council meeting on 12 March 2008, as he needed more time to make the necessary preparation. He added that he would give notice to that effect.

(e) **Members' motions**

(i) **Motion to be moved by Hon LAU Kong-wah**

(Wording of the motion issued vide LC Paper No. CB(3) 403/07-08 dated 21 February 2008.)

61. The Chairman said that the subject of the motion to be moved by Mr LAU Kong-wah was "Promoting the introduction of monthly ticket and student fare concessions to all MTR lines".

(ii) **Motion to be moved by Hon WONG Yung-kan**

(Wording of the motion issued vide LC Paper No. CB(3) 405/07-08 dated 21 February 2008.)

62. The Chairman said that the subject of the motion to be moved by Mr WONG Yung-kan was "Rebuilding the local agriculture and fisheries industries".

63. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 27 February 2008.

VI. Report of Bills Committees and subcommittees

Report of the Subcommittee on Road Traffic (Driving Licences) (Amendment) Regulation 2008

(LC Paper No. CB(1) 849/07-08)

64. Mr James TO, Chairman of the Subcommittee, reported that the Amendment Regulation sought, inter alia, to prohibit visitors, such as two-way permit holders, from illegally performing commercial driving duties in Hong Kong as this would adversely affect the livelihood of local commercial drivers and had implications on road safety. The Subcommittee had held a meeting with the Administration to discuss the related matters and was in support of the Amendment Regulation.

65. Mr TO further reported that the Subcommittee also supported the proposed amendments to be moved by the Administration on certain issues.

66. The Chairman said that the deadline for amending this item of subsidiary legislation was 5 March 2008.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 1119/07-08)

67. The Chairman said that there were 16 Bills Committees, eight subcommittees under the House Committee and five subcommittees under Panels in action. There were also three Bills Committees and one subcommittee on policy issues on the waiting list.

VIII. Any other business

68. There being no other business, the meeting ended at 3:02 pm.