

立法會

Legislative Council

LC Paper No. CB(2) 2623/07-08

Ref : CB2/H/5/07

House Committee of the Legislative Council

Minutes of the 30th meeting held in the Legislative Council Chamber at 2:30 pm on Friday, 4 July 2008

Members present :

Hon Miriam LAU Kin-yee, 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
Dr Hon David LI Kwok-po, GBM, GBS, JP
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 CHAN Kam-lam, SBS, 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 TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, SBS, JP

Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Anna LO	Principal Council Secretary (Administration)
Mrs Pandora CHAN	Acting Principal Council Secretary (Complaints)
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Stephen LAM	Assistant Legal Adviser 4
Mr KAU Kin-wah	Assistant Legal Adviser 6
Ms Amy YU	Senior Council Secretary (2)3
Ms Melanie WAN	Public Information Officer 1
Mr Arthur KAN	Legislative Assistant (2)7

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I. Confirmation of minutes of meetings

- (a) **Special meeting held on 20 June 2008**
(LC Paper No. CB(2) 2470/07-08)
- (b) **29th meeting held on 27 June 2008**
(LC Paper No. CB(2) 2471/07-08)

The two sets of minutes were confirmed.

II. Matters arising

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

Financial proposal in connection with the earthquake in Sichuan

2. The Chairman said that CS had informed her that the Administration would shortly submit a financial proposal in connection with the earthquake in Sichuan (the financial proposal) for the Finance Committee (FC)'s consideration. CS had made an offer for the Administration to conduct a briefing for Members on the financial proposal at an appropriate forum. She had undertaken to consult Members on the need for a briefing and, if considered necessary, the appropriate forum for conducting it. She added that she would convey Members' views to the Administration.

3. Mr TAM Yiu-chung said that as the Chairman of FC, he considered it appropriate for Members to be briefed on the financial proposal at a FC meeting. He added that a special FC meeting could be held for the purpose if necessary.

4. Mr Albert CHAN expressed strong dissatisfaction with the way the Administration had proceeded with the financial proposal. He pointed out

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that it had been the established procedure for the relevant Panel to be consulted before a financial proposal was submitted to the Public Works Subcommittee and/or FC for consideration. Although he was not sure which Panel was responsible for disaster relief matters, the established procedure should be followed. Given that the Administration had arranged for a delegation of Legislative Council (LegCo) Members to visit the earthquake-stricken areas in Sichuan, procedurally and logically it should have briefed Members on the details of the financial proposal before the departure of the delegation to facilitate the delegation to better understand matters relating to the financial proposal during the visit. He considered it irresponsible on the part of the Administration to capitalize on the short time remaining before the end of the Third LegCo to rush through the financial proposal.

5. Dr KWOK Ka-ki said that he was given to know from media reports that the financial proposal would involve a considerable amount and was intended to help the reconstruction work in Sichuan. He pointed out that unlike emergency relief, reconstruction of disaster-stricken areas would take a long period of time. To provide emergency relief to the earthquake victims, the Administration had already donated \$300 million to the disaster relief headquarters. Hence, he did not see an urgency for the financial proposal to be approved within the current LegCo term. He shared Mr Albert CHAN's view that Members should be consulted on the financial proposal before its submission to FC. He was concerned that there would be little room for discussion when the financial proposal was submitted to FC for consideration.

6. The Chairman said that the matter under consideration was the need for the Administration to brief Members on the financial proposal, and not the merit of the financial proposal which had yet to be submitted to Members. CS had informed her during their meeting that the financial proposal would be submitted to FC before the fourth Chief Executive (CE)'s Question and Answer Session scheduled for 16 July 2008. After the financial proposal had been submitted to LegCo, there would be ample time for discussion. She pointed out that while it was the established procedure for the relevant Panel to be briefed on a financial proposal prior to its submission to FC, the financial proposal in question did not fall within the purview of any particular Panel. Furthermore, most of the Panels had already concluded their work for the current term.

7. Mrs Anson CHAN shared the views of Mr Albert CHAN and Dr KWOK Ka-ki. She considered it necessary for the Administration to explain to Members the urgency of the financial proposal. She sought clarification on whether the Administration's arrangement for Members to visit Sichuan had anything to do with the financial proposal.

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8. The Chairman said that she was not in a position to answer Mrs Anson CHAN's question. She reiterated that the matter under consideration was whether there was a need for the Administration to brief Members on the financial proposal before its submission to FC, and the appropriate forum for conducting the briefing, if considered necessary.

9. Mrs Anson CHAN considered it appropriate for Members to be briefed on the financial proposal at a FC meeting.

10. Dr Fernando CHEUNG shared the views of Mr Albert CHAN and Dr KWOK Ka-ki that the established procedure should be adhered to whereby the relevant Panel should be consulted on the financial proposal before its submission to FC. He said that as the Administration had not provided details on the financial proposal or explained its urgency, he did not see any justification for deviating from the established procedure. He noted that while some Panels had not scheduled further meetings before the end of the current term, some other Panels, such as the Panel on Welfare Services, would still hold meetings in the following two weeks. In his view, the relevant Panel or FC could hold a special meeting for the Administration to brief Members on the financial proposal.

11. The Chairman drew Members' attention to the two previous occasions in 1999 and 2005 on which Members were briefed on the relevant financial proposals at FC meetings before their submission to FC. The Chairman said that it was for Members to decide whether the same approach should be adopted for the financial proposal in question.

12. Ms Emily LAU stressed that the consideration of a financial proposal should follow the established procedure, in particular for a financial proposal which was controversial. She considered it unacceptable for the Administration to bypass the established procedure and not to consult the relevant Panel before submission of the financial proposal to FC. She appealed to the Chairman of FC not to agree to such an arrangement. Ms LAU pointed out that since the financial proposal was related to the reconstruction work in Sichuan, she did not see a need for FC's approval to be sought within the current term. In her view, as all Members would likely be interested in participating in discussions on the financial proposal, the briefing could be conducted at a House Committee meeting.

13. Mr Fred LI shared the view that Members should be briefed on the financial proposal before its submission to FC. He noted from media reports that CS was responsible for coordinating the Government's relief and rehabilitation work in Sichuan. He opined that since CS's Office was not the corresponding bureau of any particular Panel, the briefing on the financial proposal could be conducted at a special House Committee meeting.

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Alternatively, the briefing could be held at a FC meeting. Should the latter approach be adopted, the briefing and the consideration of the financial proposal should be conducted at two separate FC meetings to allow sufficient time for discussions before the proposal was voted on.

14. Dr YEUNG Sum considered it important to adhere to the established procedure whereby the relevant committee would be briefed on a financial proposal before its submission to FC. As regards the appropriate forum for conducting the briefing, he said that it would depend on Members' views on whether the matter fell within the remit of a particular Panel, or straddled the policy area of more than one Panel.

15. In summing up, the Chairman said that Members generally agreed on the need for the Administration to conduct a briefing on the financial proposal before its submission to FC. It was inappropriate for Members to be briefed on financial proposals at House Committee meetings. As the financial proposal did not fall within the purview of any particular Panel, she proposed that matters relating to the briefing be dealt with by FC. Members agreed.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 27 June 2008 and tabled in Council on 2 July 2008

(LC Paper No. LS 102/07-08)

16. The Chairman said that a total of eight items of subsidiary legislation, including one Commencement Notice, were gazetted on 27 June 2008 and tabled in the Council on 2 July 2008.

17. Regarding the Food Business (Amendment) Regulation 2008, the Chairman said that it sought to ban overnight stocking of live poultry at retail outlets and had come into operation upon its gazettal on 2 July 2008. Given that Mr Albert CHAN would move a motion at the Council meeting on 9 July 2008 to repeal the Regulation, she sought Members' view on the need to form a subcommittee to scrutinize it.

18. Mr Tommy CHEUNG said that there could be three possible outcomes in respect of Mr Albert CHAN's motion, viz. it might be carried or negatived at the Council meeting on 9 July 2008 or withdrawn by Mr CHAN before the Council meeting. Should the motion be carried, the Regulation would cease to be in force and there would be no need for scrutiny. As the House Committee meeting was the last one for the current term, he was concerned whether the decision on the formation of a subcommittee could be deferred until after the outcome in respect of the motion had been known.

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Alternatively, Members could decide on the formation of a subcommittee to study the Regulation at the House Committee meeting, in which case the subcommittee would only commence work should the motion be withdrawn or negated.

19. The Chairman said that it was up to Members to decide how to handle the Regulation which had already come into operation. Should Mr Albert CHAN's motion to repeal the Regulation be carried, the Regulation would cease to be in force. She pointed out that as the Third LegCo would be prorogued on 19 July 2008, should a subcommittee be formed to study the Regulation, it would unlikely complete the scrutiny work within the current term. She sought clarification from the Legal Adviser (LA) on whether a subcommittee could be formed again in the Fourth LegCo to scrutinize the Regulation.

20. LA replied in the affirmative. He explained that under the Interpretation and General Clauses Ordinance (Cap. 1), the deadline for amending the Regulation was the second meeting of LegCo in the next session (i.e. 15 October 2008), or the first meeting after 21 days from the second meeting of the next session (i.e. 5 November 2008) if extended by resolution. The Regulation would be subject to the scrutiny of LegCo within the prescribed period.

21. Mr Albert CHAN criticized the approach adopted by the Administration in handling the matter. He considered it inappropriate for the Administration to have introduced the Regulation shortly before the end of the Third LegCo and to have brought it into operation upon its gazettal with the effect that it would be in force at least until the second meeting of LegCo in the next session. Under such circumstances, there was no choice for Members but to repeal the Regulation. He appealed to Members to support his motion to repeal the Regulation. He pointed out that it was incumbent upon LegCo to scrutinize legislative proposals. As the Regulation was of wide public concern, he considered it necessary to form a subcommittee to study it, albeit there might not be sufficient time to complete the scrutiny.

22. Mr Tommy CHEUNG expressed support for forming a subcommittee to scrutinize the Regulation.

23. The Chairman proposed that a subcommittee be formed to study the Regulation in detail. Members agreed. The following Members agreed to join: Mr Fred LI, Mrs Selina CHOW, Mr Tommy CHEUNG, Mr Albert CHAN, Mr Vincent FANG and Mr Alan LEONG.

24. Members did not raise any queries on the other seven items of subsidiary legislation.

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25. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 15 October 2008, or 5 November 2008 if extended by resolution.

IV. Further business for the Council meeting on 9 July 2008

Meeting arrangement

26. The Chairman said that as it was anticipated that the Council meeting on 9 July 2008 might last for more than three days, she had given advance notice at the last House Committee meeting that Members' views would be sought at the meeting regarding the arrangement for that Council meeting. She invited Members' views on the following options:

- (a) continuing the meeting on 11 July 2008 until all the business on the Agenda had been finished;
- (b) suspending the meeting at about 10:00 pm on 11 July 2008 and resuming it on Saturday, 12 July 2008; or
- (c) suspending the meeting at about 10:00 pm on 11 July 2008 and resuming it on Monday, 14 July 2008.

27. Dr Philip WONG said that starting the Council meeting at 9:00 am instead of 11:00 am on 9 July 2008 could be another possible option. With two additional meeting hours, it might not be necessary to continue the meeting on 12 or 14 July 2008.

28. The Chairman said that the notice for the Council meeting had already been issued and any change to the scheduled starting time would require the approval of the President.

29. In response to Mrs Selina CHOW, the Chairman said that under option (a), the meeting would continue until all the business on the Agenda had been finished.

30. Mrs Selina CHOW indicated support for option (b).

31. In response to Ms Emily LAU and Mr Tommy CHEUNG's enquiries, the Chairman said that under option (b), the Council meeting would start at 11:00 am on 9 July 2008 and be suspended at around 10:00 pm. It would be resumed at 9:00 am on 10 July 2008 and suspended at around 10:00 pm, and such arrangement would be repeated on the day(s) following (including Saturday and Sunday) until all the business on the Agenda had been finished.

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32. Ms Emily LAU expressed support for option (b).

33. Members agreed that option (b) be adopted.

(a) **Questions**

(LC Paper No. CB(3) 836/07-08)

34. The Chairman said that Mr TAM Yiu-chung had replaced his oral question.

(b) **Government motions**

Proposed resolution to be moved by the Secretary for Development under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Building (Refuse Storage and Material Recovery Chambers and Refuse Chutes) (Amendment) Regulation 2008

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 850/07-08 dated 3 July 2008.)

35. The Chairman said that the relevant Subcommittee had presented its report to the House Committee at the last meeting, and Members noted that the Administration would move a motion at the Council meeting to amend the Regulation.

(c) **Members' motions**

Proposed resolution to be moved by Hon Albert CHAN Wai-yip under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Food Business (Amendment) Regulation 2008

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 845/07-08 dated 2 July 2008.)

36. The Chairman said that Mr Albert CHAN would move a motion at the Council meeting to repeal the Regulation.

37. Noting that the deadline for amending the Regulation could be extended by resolution to 5 November 2008, Mr James TO sought clarification on whether a motion to repeal the Regulation could be moved in the next term should Mr Albert CHAN's motion be negatived in the current term.

38. At the invitation of the Chairman, LA said that there was no provision in Cap. 1 or the Rules of Procedure which would disallow the moving of such a motion in the new LegCo term.

V. The Chief Executive's Question and Answer Session on 16 July 2008

39. The Chairman invited Members' views on issues which they would like CE to cover in the Question and Answer Session.

40. Ms Emily LAU said that she would like CE to cover the issue of universal suffrage for the CE and LegCo elections.

41. The Chairman said that the topic suggested by Ms Emily LAU would be conveyed to CS.

VI. Report of Bills Committees and subcommittees

(a) Report of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2008

(LC Paper No. CB(1) 2091/07-08)

(Letter dated 2 July 2008 from the Secretary for Financial Services and the Treasury (SFST) to the Chairman of the House Committee (LC Paper No. CB(2) 2505/07-08(01))

42. Mr CHAN Kam-lam, Chairman of the Bills Committee, reported that the Bills Committee supported the Administration's proposal to make a one-off injection of \$6,000 into the Mandatory Provident Fund Scheme and occupational retirement scheme account of eligible persons. The Bills Committee noted the need to amend both the primary and subsidiary legislation to enable the Mandatory Provident Fund Schemes Authority to implement the injection exercise.

43. Mr CHAN further reported that the Bills Committee had held two meetings, and generally agreed to the Administration's proposal to resume the Second Reading debate on the Bill on 9 July 2008. As the deadlines for giving the relevant notices had already passed, the Bills Committee recommended that the President's permission be sought to dispense with the requisite notices for resuming the Second Reading debate on the Bill on 9 July 2008, and moving Committee Stage amendments (CSAs) to the Bill. Subject to the President's permission to dispense with the aforesaid notices, the Bills Committee also recommended that the deadline for giving notice of CSAs be deferred to 5 July 2008 (Saturday) noon. Mr CHAN added that two members of the Bills Committee would move CSAs to the Bill.

44. The Chairman drew Members' attention to the fact that the Bill was introduced into the Council only towards the end of the current term. She sought Members' views on the Bills Committee's proposals.

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45. Ms Emily LAU criticized the Administration for not allowing sufficient time for LegCo to scrutinize the Bill. She considered that Members were compelled to support the waiving of the requisite notices.

46. Members supported the Bills Committee's proposal of seeking the President's leave to waive the requisite notice periods. Subject to the President's permission to dispense with the notices, Members also supported the Bills Committee's recommendation to defer the deadline for giving notice of CSAs to noon on 5 July 2008.

(b) Fourth report of the Subcommittee on Members' Remuneration and Operating Expenses Reimbursement

(LC Paper No. AS 254/07-08)

47. Prof Patrick LAU, Chairman of the Subcommittee, said that the Subcommittee had completed its last report and recommended the formation of a similar subcommittee again in the Fourth LegCo to continue consideration of the following outstanding issues as set out in paragraphs 5 to 12 of its report -

- (a) an enhanced level of operating expenses reimbursement for Members of the Fourth LegCo; and
- (b) sharing of Members' offices and staff between LegCo and non-LegCo business.

48. Prof LAU expressed his thanks to members of the Subcommittee for their valuable contributions. He also thanked the Secretariat staff for providing professional service to the Subcommittee.

49. Members agreed with the Subcommittee's recommendation.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 2472/07-08)

50. The Chairman said that there were one Bills Committee, one subcommittee under the House Committee and two subcommittees under Panels in action.

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VIII. Report of the Panel on Development on its duty visit to study the experiences of Amsterdam and Prague in town planning and urban renewal

(LC Paper No. CB(1) 2095/07-08)

51. Mr LAU Wong-fat, Leader of the delegation, referred Members to the Panel's report for details of the findings and observations of the delegation.

52. Members did not raise any queries on the report.

IX. Report of the Panel on Food Safety and Environmental Hygiene on its duty visit to study the regulatory systems of food safety in France and the United Kingdom

(LC Paper No. CB(2) 2475/07-08)

53. Mr Fred LI, Leader of the delegation, referred Members to the Panel's report for details of the findings and observations of the delegation.

54. Members did not raise any queries on the report.

X. Proposal to invite Vice-President XI Jinping to meet with all Members of the Legislative Council

(Letter dated 27 June 2008 from Hon SIN Chung-kai to the Chairman of the House Committee (LC Paper No. CB(2) 2476/07-08(01))

55. The Chairman referred Members to Mr SIN Chung-kai's letter proposing to write to the Central Government to convey the wish of all LegCo Members to meet with Vice-President XI Jinping during his visit to Hong Kong from 6 to 8 July 2008.

56. Mr LEE Wing-tat said that although LegCo Members had been invited to a banquet with the Vice-President, the banquet was only socialising in nature. Given that LegCo Members represented the people of Hong Kong, he considered it important for Members to have a formal meeting with the Vice-President to exchange views on issues of mutual concern.

57. The Chairman said that on previous occasions, Members had agreed that the Chairman of the House Committee should write to CE to convey their wish to meet with State Leaders visiting Hong Kong. She suggested that the same approach be taken in respect of Mr SIN's suggestion, and she would write to CE on the matter. Members agreed.

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XI. Any other business

58. There being no other business, the meeting ended at 3:00 pm.

Council Business Division 2
Legislative Council Secretariat
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