

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 9th meeting
held in the Legislative Council Chamber
at 4:08 pm on Friday, 3 December 1999**

Members present :

Dr Hon LEONG Che-hung, JP (Chairman)
Dr Hon YEUNG Sum (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, JP
Hon David CHU Yu-lin
Hon HO Sai-chu, SBS, JP
Hon Edward HO Sing-tin, SBS, JP
Hon Albert HO Chun-yan
Hon Michael HO Mun-ka
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Wing-tat
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Hon LEE Kai-ming, SBS, JP
Hon Fred LI Wah-ming, JP
Hon NG Leung-sing
Prof Hon NG Ching-fai
Hon Margaret NG
Hon Ronald ARCULLI, JP
Hon MA Fung-kwok
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon Ambrose CHEUNG Wing-sum, JP
Hon HUI Cheung-ching
Hon Christine LOH Kung-wai
Hon CHAN Kwok-keung
Hon CHAN Yuen-han
Hon CHAN Wing-chan
Hon CHAN Kam-lam

Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Miss Anita HO	Assistant Legal Adviser 2
Miss Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Mr Arthur CHEUNG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mr LAW Wing-lok	Chief Assistant Secretary (2)5
Miss Mary SO	Senior Assistant Secretary (2)8

Action

**I. Confirmation of the minutes of the 8th meeting held on 26 November 1999
(LC Paper No. CB(2) 493/99-00)**

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that he had again drawn the Administration's attention to the slow progress in introducing bills into the Council. CS had replied that Bureau Secretaries had been reminded to expedite action.

III. Business arising from previous Council meetings

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

**(i) Merchant Shipping (Safety) (Amendment) Bill 1999
(LC Paper No. LS 28/99-00)**

3. The Chairman said that the purpose of the Bill was to give effect to the "1988 Protocol to the International Convention for the Safety of Life at Sea, 1974" and the "1988 Protocol to the International Convention on Load Lines 1966" adopted by the International Maritime Organization. He added that according to the Administration, the shipping industry had been consulted and had expressed support for the amendments proposed in the Bill. The Administration had also circulated a paper on the proposed amendments to the Panel on Economic Services on 30 November 1999.

Action

4. The Chairman further said that the Legal Service Division was seeking clarifications from the Administration on certain technical points and would submit a further report. He suggested that a decision on the Bill be deferred pending the Legal Service Division's further report. Members agreed.

(ii) **Dangerous Goods (Amendment) Bill 1999**
(*LC Paper No. LS 35/99-00*)

5. The Legal Adviser introduced the paper and said that the Bill sought to revise the provisions on classifications of dangerous goods to bring them in line with the International Maritime Dangerous Goods Code as far as possible. The Bill also sought to provide for regulation-making power in respect of labelling, packaging, exemption and conveyance of dangerous goods under the Dangerous Goods Ordinance, as well as penalties for breach of various offences under the Ordinance.

6. The Chairman said that the Administration had briefed the Panel on Security on the Bill in October 1999. Some Panel members had expressed concerns over certain proposals in the Bill.

7. Miss CHAN Yuen-han suggested that a Bills Committee be formed to study the Bill. Members agreed. The following members agreed to join : Mr LEE Kai-ming, Mr CHAN Kwok-keung and Mr James TO Kun-sun (as advised by Mr LEE Wing-tat).

(b) **Legal Service Division's report on subsidiary legislation tabled in Council on 1 December 1999 (gazetted on 26 November 1999)**
(*LC Paper No. LS 34/99-00*)

8. The Chairman introduced the paper which detailed the six items of subsidiary legislation gazetted on 26 November 1999.

9. Referring to the Fisheries Protection (Specification of Apparatus) Notice ("the Notice"), the Legal Adviser said that the Notice specified certain classes of apparatus which were prohibited for the purpose of fishing under regulation 4A of the Fisheries Protection Regulations (Cap. 171 sub. leg.). The Legal Adviser further said that the penalty provision, which was referred to in the part of the paper dealing with the Notice, was already stipulated under regulation 7 of the Regulations and was not a new provision specified under the Notice.

10. Mr WONG Yung-kan said that he had no query to raise on the Notice.

11. Mr Edward HO asked if there was still a need for the three items of municipal services-related subsidiary legislation to be made, given the passage of the Provision of Municipal Services (Reorganization) Bill by the Council on 2 December 1999.

Action

12. The Legal Adviser said that the Provision of Municipal Services (Reorganization) Bill would come into operation on a day to be appointed by the Secretary for Constitutional Affairs by notice in the Gazette. Subsidiary legislation relating to the provision of municipal services could still be made under the existing mechanism prior to the dissolution of the two Provisional Municipal Councils (PMCs). He further pointed out that the Bill contained provisions regarding the transfer of the functions exercised by the two PMCs to the relevant authorities provided under the Ordinance.

13. Members did not raise any query on the remaining two items of subsidiary legislation covered in the paper.

14. The Chairman reminded members that the deadline for amending the subsidiary legislation was 15 December 1999, or 5 January 2000 if extended by resolution.

IV. Further business for the Council meeting on 8 December 1999

Member's motion

Resolution under section 34(4) of the Interpretation and General Clauses Ordinance (Cap. 1) - to be moved by Hon Margaret NG

15. The Chairman said that Miss Margaret NG, Chairman of the Subcommittee on Immigration (Amendment) Regulation 1999, had given notice to move a motion to extend the scrutiny period of the Amendment Regulation to the Council meeting on 5 January 2000 to allow the Subcommittee more time for the scrutiny.

16. Miss Margaret NG said that in the light of the Court of Final Appeal's judgment concerning the removal orders against 17 Mainland overstayers, it might not be appropriate for her to continue to be the Chairman. She would consider asking the Subcommittee to elect a new Chairman.

V. Business for the Council meeting on 15 December 1999

(a) Questions
(LC Paper No. CB(3) 276/99-00)

17. Members noted that 20 questions (six oral and 14 written) had been scheduled.

Action

(b) **Bills - First and Second Readings**

- (i) **Landlord and Tenant (Consolidation) (Amendment) Bill 1999**
- (ii) **Education (Amendment) Bill 1999**
- (iii) **Drug Trafficking and Organized Crimes (Amendment) Bill 1999**

18. Members noted that the above Bills would be introduced into the Council on 15 December 1999 and considered by the House Committee on 17 December 1999.

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

Industrial Training (Clothing Industry) (Amendment) Bill 1999

19. The Chairman said that members agreed at the House Committee on 26 November 1999 that the Second Reading debate on the above Bill be resumed.

(d) **Government motion**

Resolution under section 31(4) of the Import and Export Ordinance (Cap. 60) - to be moved by the Secretary for Trade and Industry (LC Paper No. LS 37/99-00)

20. The Legal Adviser said that the proposed resolution sought the Council's approval for the Import and Export (Registration) (Amendment) Regulation made under section 31 of the Import and Export Ordinance. He explained that the Amendment Regulation, which proposed to delete the option of lodgement of import and export declarations in person, was similar in effect to that proposed in the Industrial Training (Clothing Industry) (Amendment) Bill 1999 which was considered at the last House Committee meeting on 26 November 1999. He added that the legal and drafting aspects of the proposed resolution and the Amendment Regulation were in order.

21. Members did not raise any query on the proposed resolution.

(e) **Members' motions**

(i) **Motion on "Long-term transport strategy for Hong Kong"**

22. Members noted the draft wording of the motion to be moved by Mrs Miriam LAU Kin-ye.

Action

(ii) **Motion on "Opposing the legalization of gambling on football matches"**

23. Members noted the wording of the motion to be moved by Mr YEUNG Yiu-chung.

24. The Chairman reminded members that the deadline for giving notice of amendments (if any) to the motions was 8 December 1999. The speaking time limits stipulated in rule 17(c) of the House Rules would apply.

VI. Reports

(a) **Position report on Bills Committees/subcommittees**
(*LC Paper No. CB(2) 508/99-00*)

25. The Chairman said that there were 14 Bills Committees and eight subcommittees in action.

26. The Chairman further said that the Bills Committee on International Organizations (Privileges and Immunities) Bill was currently holding its work in abeyance pending the Administration's response to queries raised by the Bills Committee. As the Administration had recently submitted its response, the Chairman suggested that the Bills Committee could now be reactivated as there was a vacant slot. Members agreed.

27. The Chairman said that with the formation of the Bills Committee to study the Dangerous Goods (Amendment) Bill 1999, there were 12 Bills Committees on the waiting list.

(b) **Report of the Bills Committee on Adaptation of Laws (No.10) Bill 1999**

(LC Paper No. CB(2)503/99-00)

28. Mr Andrew WONG, Chairman of the Bills Committee, highlighted the Bills Committee's deliberations on the substitution of "England" by "the People's Republic of China" and the substitution of "British citizen, British Dependent Territories citizen or British Overseas citizen" by "Chinese national" in the International Organizations and Diplomatic Privileges Ordinance (Cap. 190) and its subsidiary legislation, as detailed in paragraphs 7 and 8 and paragraphs 12 to 17 of the paper respectively. He said that the Administration had proposed Committee Stage amendments (CSAs) to address the Bills Committee's concern about the use of the word "custom" in the long title and section 6 of Cap. 190.

Action

29. Mr WONG further said that the Bills Committee supported the Bill and recommended that the Second Reading debate on the Bill be resumed subject to the CSAs to be moved by the Administration.

30. Miss Margaret NG said that although her name appeared on the membership list of the Bills Committee, she had not attended either one of the two meetings of the Bills Committee. She added that she had different views on certain aspects of the Bill and would raise them at the Second Reading debate on the Bill.

(c) Report of the Parliamentary Liaison Subcommittee

31. Mr Edward HO, Chairman of the Subcommittee, informed members that the date of the visit had been changed from 6-13 February 2000 to 13-20 February 2000, as both the European Parliament and the German Bundestag would not be in session for the whole week of 6 February 2000. He added that as the European Parliament would be in session during the period from 14-19 February in Strasbourg, the delegation would have to go to Strasbourg instead of Brussels.

32. Mr HO further said that in the light of the change in the date of the visit, the Subcommittee had recommended that applications to join the delegation be invited from Members afresh. Members agreed.

33. Mr HO added that a total of 16 Members had responded to the circular inviting Members to join the visit scheduled to take place from 6-13 February 2000. This number was well in excess of the number of eight Members agreed at the House Committee meeting on 19 November 1999. He pointed out that The Legislative Council Commission had previously decided that any Member not selected to be among the agreed number of delegates sponsored for an overseas duty trip could join the delegation on a self-financing basis. He added that the House Committee would have to decide on the selection criteria if more than eight Members indicated interest to join the visit, which would now take place from 13-20 February 2000.

34. The Chairman hoped that different political groupings in the Council would bear in mind the decision of The Legislative Council Commission and come to a consensus in regard to the membership of the delegation. The Chairman added that the criteria for selecting Members to join the delegation would be discussed if there was an over-subscription of Members for the visit. Members agreed.

VII. Any other business

(a) Reorganization of municipal services

35. The Chairman said that with the passage of the Provision of Municipal Services (Reorganization) Bill, a new administrative structure for the provision of municipal services would be established on 1 January 2000 subject to the Finance Committee's approval of the staffing and associated funding requirements. He added that there was a need for the House Committee to consider, at its next meeting on 17 December 1999, whether new Panel(s) should be formed and/or the existing work of certain Panels should be adjusted to correspond with the new governmental structure for the provision of municipal services.

36. Mr Eric LI said that it would take some time before a new Panel could be formed. He asked whether some transitional mechanism could be put in place to deal with municipal services-related issues pending the formation of new Panel(s).

37. The Secretary General said that under Rule 77(1) and (2) of the Rules of Procedure, the Council's approval was required for the formation of new Panels or the alteration of the terms of reference of existing Panels.

38. The Legal Adviser said that although it was not provided in law when the Provision of Municipal Services (Reorganization) Ordinance would come into operation, the Administration had targeted 1 January 2000 as the date for the establishment of the new administrative structure for the provision of municipal services and commencement of the Ordinance. He suggested that prior to the formation of new Panel(s), consideration could be given to the setting up of a subcommittee under the House Committee to consider the terms of reference of new Panel(s) as well as whether, and if so how, the responsibilities of certain existing Panels should be adjusted.

39. Mr LEE Kai-ming said that pending the formation of new Panel(s), a subcommittee should be set up to deal with transitional issues relating to the provision of municipal services.

40. The Chairman suggested that the Secretariat should prepare a discussion paper for the next meeting on 17 December 1999 setting out recommendations on the changes to be made to the terms of reference of certain existing Panels and whether new Panel(s) should be formed, in order to oversee the new governmental structure for the provision of municipal services. Members agreed.

Action

(b) Declaration of interest by individuals invited to give views

41. The Chairman said that this item was raised by Miss Emily LAU. He further said that in his view, deputations or individuals invited to give views at committee meetings would invariably have interest of one kind or another in the subject matter under discussion, and he was not sure what interest Miss LAU considered necessary for the deputations or individuals concerned to declare.

42. Miss Emily LAU said that individuals invited to attend committee meetings to give views on a matter should declare if they had any pecuniary interest or involvement in the matter concerned. Miss LAU cited the case of Prof Ray Pine, Head of the Department of Hotel and Tourism Management of the Hong Kong Polytechnic University, who did not declare at the special meeting of the Panel on Economic Services on 11 November 1999 convened to discuss the Hong Kong Disneyland (HKD) project that discussion was underway with The Walt Disney Company (WD) for arranging his students to undergo training at the Disney's theme parks in the United States.

43. Miss LAU was of the view that Prof Pine should have made known his involvement with WD at the special meeting on 11 November 1999. Miss LAU considered that some mechanism should be put in place such that individuals appearing before a committee would be made aware of the requirement to declare interest.

44. Miss Margaret NG said that there was no need for setting up such a mechanism, given that individuals invited to give views at committee meetings were often professionals who were governed by their professional codes of conduct which normally required them to declare any interest they had in the matter under discussion. Referring to Prof Pine's case mentioned by Miss LAU, Miss NG opined that it might have been an oversight on Prof Pine's part not to declare his involvement with WD.

45. Mr CHAN Kam-lam expressed reservation about the need for requesting professionals and academics appearing before a committee to declare interest, given that they were invited to give expert opinions on the subject matter under discussion by the committee concerned.

46. Mr Michael HO said that not all individuals invited to give views were professionals, and he considered it preferable if they were reminded to make a declaration should they have any interest in the subject matter under discussion.

47. Prof NG Ching-fai said that it was difficult to say with certainty whether an individual had a pecuniary interest in a matter simply on the basis of his/her involvement in the matter concerned. Prof NG pointed out that Prof Pine's involvement with WD was merely to seek better training opportunities for his

Action

students and Prof Pine himself derived no personal benefit from such involvement. However, Prof NG felt that it would be preferable if Prof Pine had declared his involvement with WD at the special meeting on 11 November 1999.

48. The Chairman suggested that the Secretariat prepare a paper detailing the existing procedures for inviting deputations and individuals and examining the need for any mechanism to be put in place requiring deputations and individuals to declare their interest or involvement in the subject matter concerned. Members agreed.

(c) **Asking oral questions at Council meetings**

49. Miss Emily LAU said that some Members were not in the Chamber when it was their turn to ask oral questions during question time at recent Council meetings. In her view, Members should be respectful of the Council and should turn up on time to ask their questions.

50. The Chairman said that Rule 26(6) of the Rules of Procedures stipulated that if a Member was not present to ask his question, the question would be treated as a question for which a written answer had been sought. The Chairman added that the existing practice was that if the Member concerned did turn up before the end of question time, the President would exercise her discretion to allow the Member to ask his question.

51. Miss LAU said that the procedure set out in Rule 26(6) was unsatisfactory, as it would result in a waste of the public officer's time and deprive Members of opportunities to ask supplementary questions.

52. Mr CHAN Kam-lam opined that a Member's failure to turn up on time to ask questions would most likely be due to unforeseen circumstances, and it should not be taken to mean that the Member was disrespectful of the Council.

53. Mr Michael HO said that he had no strong view about allowing a Member who came in late to ask his question before the end of question time. However, he was of the view that a system should be put in place for determining the order in which the deferred question was to be asked.

54. Mr James TIEN said that he could understand that occasionally a Member might turn up a few minutes late to ask the first oral question on the agenda, but considered it inexcusable if Members who were scheduled to ask the subsequent five oral questions were late to ask their questions. However, Mr TIEN expressed support for the existing practice under which the President would exercise discretion and allow a Member turning up late to have another chance to ask his question before the end of question time.

Action

55. Assistant Secretary General 3 said that as only six oral questions were scheduled for each Council meeting, the President would allow a Member who missed his turn another chance to ask his question if he turned up before the end of question time. He further said that the existing practice for handling the situation where a Member or a public officer was late for asking or answering a question had worked well so far.

56. The Chairman hoped that Members would endeavour to avoid turning up late to ask oral questions during question time.

(d) Behaviour of Members during Meetings

57. Miss Emily LAU said that in order to uphold the dignity of the Council, Members should address other Members and public officers properly and should avoid table-pounding during a Council meeting.

58. Prof NG Ching-fai said that Members should avoid using impolite and crude languages, some of which might be triad-related, in their speeches. Mr Michael HO and Mr James TIEN echoed Prof NG's view.

59. Mr CHAN Kam-lam shared Prof NG's concern and said that resorting to such languages during a Council meeting had sometimes turned a debate into a squabble.

60. The Chairman said that there were no specific provisions in the Rules of Procedure prohibiting the behaviour mentioned by Miss LAU. However, if Members considered that table-pounding during a Council meeting should not be permitted, they could request the President to exercise her discretion to disallow such behaviour.

61. Mr Michael HO said that table-pounding could be taken as a means of expressing one's sentiments on a particular issue and did not necessarily mean that the Member concerned was disrespectful of the Council. Mr James TIEN echoed Mr HO's views but hoped that Members would refrain from behaving in such a manner as far as possible.

62. The Chairman said that in his view, Members should exercise self-restraint and act with decorum during Council meetings to uphold the dignity of the Council.

(e) Housing Panel's site visit on 23 November 1999

63. Mr Gary CHENG Kai-nam said that during the site visit to Tseung Kwan O undertaken by the Panel on Housing on 23 November 1999, he noticed that several candidates of the District Council election belonging to a certain political party were present and that they took an active role throughout

Action

the site visit. Mr CHENG considered that such a situation should be avoided, as the candidates concerned might stand to gain publicity and exposure out of the site visit which was arranged by the Secretariat. The Chairman asked the Secretariat to take note of the incident.

64. There being no further business, the meeting ended at 5:17 pm.

Legislative Council Secretariat

15 December 1999