

立法會
Legislative Council

LC Paper No. CB(2)870/99-00

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 12th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 14 January 2000**

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 Cyd HO Sau-lan
Hon Edward HO Sing-tin, SBS, JP
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 Fred LI Wah-ming, JP
Hon NG Leung-sing
Prof Hon NG Ching-fai
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-yee, JP
Hon Ronald ARCULLI, JP
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon Christine LOH Kung-wai
Hon CHAN Kwok-keung
Hon CHAN Yuen-han
Hon Bernard CHAN
Hon CHAN Wing-chan
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, JP
Hon LEUNG Yiu-chung
Hon Gary CHENG Kai-nam, JP

Mr Ray CHAN	Assistant Secretary General 3
Miss Anita HO	Assistant Legal Adviser 2
Mr Stephen LAM	Assistant Legal Adviser 4
Mr Arthur CHEUNG	Assistant Legal Adviser 5
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Miss Salumi CHAN	Chief Assistant Secretary (1)5
Mr LAW Wing-lok	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Mary SO	Senior Assistant Secretary (2)8

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I. Confirmation of the minutes of the 11th meeting held on 7 January 2000
(LC Paper No. CB(2) 804/99-00)

The minutes were confirmed.

II. Matters arising

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

(a) Introduction of Bills

(Director of Administration's letter dated 13 January 2000 tabled at the meeting and issued vide LC Paper No. CB(2) 885/99-00 on 18 January 2000)

2. The Chairman referred members to the letter and said that the Administration had suggested that priority be given to the scrutiny of the Education (Amendment) Bill 1999 and the Securities (Amendment) Bill 1999. Members agreed.

3. The Chairman further said that he had again impressed upon the Administration to introduce bills as soon as possible, preferably not later than February, so as to allow members adequate time for scrutiny.

(b) Moving of Committee Stage Amendments (CSAs)

4. The Chairman informed members that CS had pointed out that the Administration, in moving CSAs, more often than not acknowledged the work of the Bills Committee concerned. CS had also said that some CSAs were the conclusion of discussion and result of co-operation between Members and the Administration.

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5. The Chairman said that individual Members could give notice to move the CSAs which were proposed by them and supported by both the Administration and the Bills Committee concerned, if they so wished.

6. The Chairman further said that if the Administration's CSA was identical to that proposed by an individual Member, the Administration's CSA would be dealt with first in accordance with the Rules of Procedure. Mr LEE Wing-tat and Mr Ronald ARCULLI expressed disappointment at CS's response. They pointed out that in such a situation, the Member concerned would not be called upon to move his or her CSA at the Committee Stage as the Council would have already taken a decision on the CSA moved by the Administration, as stipulated under the Rules of Procedure. Mr ARCULLI added that in the past, the Chairman or individual members of a Bills Committee were able to propose CSAs which were supported by the Administration and the Bills Committee concerned.

7. Dr Philip WONG said that in his view, CSAs initiated by Bills Committee members but moved by the Administration would serve to indicate that the CSAs had the support of the Administration and the Bills Committee concerned. On the other hand, CSAs moved by individual Members would give the impression that there was disagreement between the Administration and the Bills Committee, which might affect non-Bills Committee Members as to how they would cast their vote.

8. Mr Ronald ARCULLI said that consideration could be given to amending the Rules of Procedure such that Members' CSAs would be dealt with ahead of identical CSAs proposed by the Administration. The Legal Adviser explained that such an amendment would contravene Article 72(2) of the Basic Law which stipulated that government motions would be given priority on the Agenda. The Legal Adviser added that in his view, the word "bills" in the English version of Article 72(2) of the Basic Law was a wrong translation of "motion" in the same article of the Chinese version of the Basic Law.

9. Miss Emily LAU said that the present arrangement would give the public the impression that Members would not be able to move CSAs unless they had the consent of the Administration to do so.

10. The Chairman said that he would write to CS to convey Members' views on the matter so that the Administration's stance could be spelt out in written form in its response.

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III. Business arising from previous Council meetings

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

Factories and Industrial Undertakings (Amendment) (No. 2) Bill 1999

(LC Paper No. LS 47/99-00)

11. The Chairman said that the Bill proposed to extend the time limit for commencing prosecution for certain offences under the Factories and Industrial Undertakings Ordinance. He added that the Labour Advisory Board and its Committee on Occupation Safety and Health had expressed support for the proposal. The Panel on Manpower was consulted on 25 November 1999. No adverse comments on the proposal were made by Panel members.

12. The Legal Adviser drew members' attention to paragraphs 5 to 7 of the paper which detailed the background to the Bill. The proposals contained in the Bill were a result of the Public Accounts Committee's recommendations. He said that the legal and drafting aspects of the Bill were in order.

13. Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(b) Legal Service Division's report on subsidiary legislation tabled in Council on 12 January 2000 (gazetted on 7 January 2000)

(LC Paper No. LS 59/99-00)

14. Members did not raise any query on the subsidiary legislation detailed in LC Paper No LS 59/99-00.

15. The Chairman reminded members that the deadline for amending the subsidiary legislation was 26 January 2000, or 16 February 2000 if extended by resolution.

(c) Legal Service Division's report on the Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2000 tabled in Council on 12 January 2000 (gazetted on 7 January 2000)

(LC Paper No. LS 60/99-00)

16. The Legal Adviser introduced the paper and pointed out that the Order was made under section 6B of the Import and Export Ordinance which provided that LegCo was empowered only to repeal, but not amend, the Order.

17. Members did not raise any query on the Order.

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18. The Chairman reminded members that the deadline for repealing the Order was 26 January 2000, or 16 February 2000 if extended by resolution.

IV. Further business for the Council meeting on 19 January 2000

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

Organized and Serious Crimes (Amendment) Bill 1999

19. Members agreed at the meeting on 7 January 2000 that the Second Reading debate on the above Bill be resumed.

(b) Members' motion

Resolution under section 34(2) of the Interpretation and General Clauses ordinance (Cap. 1) - to be moved by Hon Ronald ARCULLI

20. The Chairman said that Mr Ronald ARCULLI, Chairman of the subcommittee formed to study subsidiary legislation relating to the 2000 LegCo election, had given notice to move a resolution at the Council meeting on 19 January 2000 to repeal the Electoral Affairs Commission (Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation. The Chairman further said that Mr ARCULLI would report under agenda item VI(c) below.

(c) Duration of Council meeting on 19 January 2000

21. Members agreed that there was no need to make a recommendation to the President to suspend the Council meeting around 10:00 pm on 19 January 2000 and continue unfinished business on the following day.

V. Business for the Council meeting on 26 January 2000

(a) Questions
(LC Paper No. CB(3) 437/99-00)

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

(b) Bills - First and Second Readings

(i) Insurance Companies (Amendment) Bill 2000

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(ii) **Building Management (Amendment) Bill 2000**

(iii) **Mental Health (Amendment) Bill 2000**

(iv) **Intellectual Property (Miscellaneous Amendments) Bill 2000**

23. Members noted that the above Bills would be introduced into the Council on 26 January 2000 and considered by the House Committee on 11 February 2000.

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

24. Members noted that no notice had been received yet.

(d) **Government motion**

Resolution under section 29 of the Pharmacy and Poisons Ordinance (Cap. 138) - to be moved by the Secretary for Health and Welfare

(LC Paper No. LS 61/99-00)

25. The Legal Adviser said that the proposed resolution sought the Council's approval for the Pharmacy and Poisons (Amendment) Regulation 2000 and Poisons List (Amendment) Regulation 2000 made by the Pharmacy and Poisons Board pursuant to section 29 of the Pharmacy and Poisons Ordinance. He explained that the objects of the two Amendment Regulations were to amend the Poisons List in the Poisons List Regulations and the schedules to the Pharmacy and Poisons Regulations, for the purpose of imposing or updating control on a number of medicines.

26. The Legal Adviser further said that the Legal Service Division was of the view that the proposed resolution and the Amendment Regulations were legally in order.

27. Members did not raise any query on the resolution.

(e) **Members' motions**

(i) **Motion on "Restructuring of Panels"**

28. Members noted the wording of the motion to be moved by the Chairman on behalf of the House Committee.

29. The Chairman informed members that Members belonging to the Democratic Party would propose amendments to his motion. He reminded

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members that there was a gentleman's agreement that they should vote in favour of the original motion should the proposed amendments to the motion be negated.

(ii) **Resolution under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382)**

30. Members noted the wording of the motion to be moved by Mr Andrew CHENG Kar-foo.

(iii) **Motion on "Review of Buildings Ordinance"**

31. Members noted the wording of the motion to be moved by Dr Raymond HO Chung-tai.

(iv) **Motion on "Assisting import and export trade in seizing the opportunities created by China joining the World Trade Organization"**

32. Members noted the wording of the motion to be moved by Mr HUI Cheung-ching.

33. The Chairman said that the deadline for giving notice of amendments (if any) to the motions referred to in items (i) to (iv) above was 19 January 2000.

34. The Chairman further said that the speaking time limit of 15 minutes would apply to the two motions under items (i) and (ii). The speaking time limits stipulated in rule 17(c) of the House Rules would apply to the other two motions under items (iii) and (iv).

VI. Reports

(a) **Position report on Bills Committees/subcommittees**
(LC Paper No. CB(2) 827/99-00)

35. The Chairman said that there were 15 Bills Committees and eight subcommittees in action. In addition, 11 Bills Committees were on the waiting list.

(b) **Report of the Bills Committee on Hong Kong Arts Development Board (Amendment) Bill 1999**
(LC Paper No. CB(2) 784/99-00)

36. Mr Timothy FOK, Chairman of the Bills Committee, introduced the paper which detailed the Bills Committee's deliberations on the Bill.

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37. Members raised no objection to the resumption of the Second Reading debate on the Bill on 26 January 2000.

(c) **Second and third reports of the Subcommittee on subsidiary legislation relating to 2000 Legislative Council election**

(LC Paper No. CB(2) 839/99-00 issued on 13 January 2000 and LC Paper No. CB(2) 859/99-00 tabled at the meeting and issued vide LC Paper No. CB(2) 885/99-00 on 18 January 2000)

LC Paper No. CB(2) 839/99-00

38. Mr Ronald ARCULLI, Chairman of the subcommittee, introduced the paper which detailed the subcommittee's deliberations on the Electoral Affairs Commission (Registration) (Electors for Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) (Amendment) Regulation 1999. He said that the subcommittee recommended that the Amendment Regulation be supported.

LC Paper No. CB(2) 859/99-00

39. Mr Ronald ARCULLI said that the paper dealt with the subcommittee's deliberations on the Electoral Affairs Commission (Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation. He highlighted the concerns of a few subcommittee members on the proposed registration procedure discussed in paragraphs 6 and 7 of the paper, and also drew members' attention to paragraph 11 of the paper which summarized the subcommittee's conclusion. He added that the subcommittee recommended that he should proceed with the motion to repeal the Regulation at the Council meeting on 19 January 2000. He hoped that members would support the subcommittee's recommendation.

40. Mr LEE Wing-tat said that the proposal in the Regulation should be supported as it helped to promote the development of party politics. Mr LEE further said that he agreed that there were problems with the Regulation. However, he had checked with the Constitutional Affairs Bureau which informed him that the Regulation could be implemented in practice. Mr LEE added that if the motion to repeal the Regulation was carried, it would mean that names of organizations and emblems would not be printed on ballot papers until the 2004 LegCo election. Dr YEUNG Sum added that the repeal of the Regulation would set a bad precedent as proposals made by the independent Electoral Affairs Commission (the EAC) had invariably been accepted by the Council in the past.

41. Mrs Selina CHOW said that some of the provisions in the Regulation dealing with application for registration were not "user-friendly". For

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example, the Regulation stipulated that an application made by an organization for the registration of its name would not be granted if the name comprised more than 10 Chinese characters/English words, and that an application made by a natural person for the registration of his/her emblem would be refused if it was or contained a photograph of any natural person. Mrs CHOW added that given the time constraint and the complex nature of some of the provisions in the Regulation, the majority of the members of the subcommittee were of the view that the Regulation should be repealed as the Regulation had not been examined in sufficient detail by the subcommittee.

42. Miss Margaret NG asked whether the implementation of the Regulation would give rise to confusion.

43. Mr ARCULLI cited the provisions in section 7 of the Regulation as an example of the confusion that would arise upon implementation of the Regulation. He pointed out that under section 7 of the Regulation, the EAC could refuse to grant an application made by an organization if the name or emblem of an organization was identical to the name or emblem of another organization which had been registered, and in respect of which that other organization had, during the relevant period in which the application of the first mentioned organization was made, made an application under section 17 of the Regulation. Since the two conditions must co-exist, the EAC had no power under section 7 to refuse the application of the first mentioned organization if that other organization did not make an application to renew its registration. Consequently, it would cause confusion as to which organization the newly registered name or emblem was associated with. However, the Administration did not consider that it would pose a problem in implementation.

44. Miss NG further asked whether the problems mentioned by Mrs Selina CHOW and Mr ARCULLI would occur in the 2000 LegCo election or the 2004 LegCo election.

45. Mr ARCULLI responded that the problems would occur in the 2004 LegCo election. However, there were other problems raised by the subcommittee which the Administration had not adequately addressed. For example, those relating to the relevant period during which applications for registration could be made, procedures for applicants to vary and re-submit their applications as well as procedures for handling objections might occur in the 2000 LegCo election.

46. Mr LEE Wing-tat said that he appreciated the concerns of the subcommittee but was of the view that the anticipated problems were more theoretical than real. He considered it more appropriate that the Regulation be implemented for the 2000 LegCo election and that the Administration be asked to review the Regulation after the election was held.

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47. Mr NG Leung-sing said that candidates in the coming LegCo election could still use any names and emblems in publicity materials or election advertisements even if the Regulation was repealed. He was of the view that the subcommittee's recommendation should be respected.

48. The Chairman said that Members would have the chance to debate fully the motion to repeal the Regulation at the Council meeting on 19 January 2000. Mr ARCULLI added that the voting procedure stipulated in Rule 46(2) of the Rules of Procedure would apply to the motion.

VII. Issues relating to the payment of honoraria to non-official members serving on boards and committees set up by the Government
(*LC Paper No. FC 45/99-00*)

49. Mr Ronald ARCULLI, Chairman of Finance Committee, said that the purpose of the paper was to invite members' views as to whether a subcommittee should be formed to examine issues related to the payment of honoraria to non-official members serving on boards and committees set up by the Government.

50. Mr Gary CHENG suggested that a subcommittee be formed. Members agreed. The following members agreed to join : Mr Edward HO Sing-tin, Mr Ronald ARCULLI and Mr Gary CHENG Kai-nam.

VIII. Election of Member to the Committee on Rules of Procedure

51. The Chairman invited members to nominate another Member to serve on the Committee on Rules of Procedure to fill Mr Ambrose CHEUNG's vacancy.

52. Mr Gary CHENG nominated Mr Jasper TSANG Yok-shing and Dr YEUNG Sum seconded the nomination. Mr Jasper TSANG accepted the nomination.

53. As there were no other nominations, the Chairman declared that Mr Jasper TSANG Yok-sing was nominated for appointment by the President to the Committee on Rules of Procedure.

IX. Any other business

Clashing of committee meetings

54. Mr Edward HO said that it had become increasingly common for more than one meeting to be scheduled for the same time slot. He pointed out that

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four separate meetings were scheduled for the 10:45 am to 12:45 pm time slot on 13 January 2000 and that some Panels had scheduled two special meetings within a month. He further said that this had resulted in some Members having to attend two meetings at the same time, and very often the meetings concerned ended up with very few Members attending. He considered such a state of affairs unsatisfactory. Miss Emily LAU and Mr Gary CHENG shared Mr HO's views.

55. The Chairman concurred with Mr HO and said that such a problem often occurred towards the end of a LegCo term rather than at this relatively early stage.

56. Mr James TIEN said that one way to solve the problem was to remind Panel chairmen to avoid scheduling special meetings as far as possible.

57. Miss Margaret NG suggested that unless under exceptional circumstances, not more than two meetings should be scheduled for the same time slot.

58. Mrs Sophie LEUNG said that committee chairmen should be advised to better monitor the time earmarked for discussion of an agenda item, so that Members wishing to participate in the discussion of a particular agenda item would have a better grasp of when to turn up for discussion of the item concerned.

59. Mr James TIEN said that it would be useful if information on the number of Panel meetings held since the beginning of the current legislative term could be provided to members. The Chairman asked the Secretariat to circulate the information in the following week.

60. The Chairman said that restricting the scheduling of not more than two committee meetings for the same time slot might not be a very effective way to address the problem, given the heavy workload in the coming months. Nevertheless, he hoped that committee chairmen would avoid, as far as possible, selecting a time slot where two other meetings had already been scheduled. Members agreed.

61. There being no further business, the meeting ended at 3:35 pm.

Legislative Council Secretariat
19 January 2000