

立法會
Legislative Council

LC Paper No. CB(2) 1438/99-00

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 17th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 17 March 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
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
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing
Prof Hon NG Ching-fai
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ronald ARCULLI, JP
Hon MA Fung-kwok
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon CHAN Kwok-keung
Hon Bernard CHAN
Hon CHAN Wing-chan
Hon LEUNG Yiu-chung
Hon Gary CHENG Kai-nam, JP
Hon SIN Chung-kai

Hon Andrew WONG Wang-fat, JP
Dr Hon Philip WONG Yu-hong
Hon Jasper TSANG Yok-sing, JP
Hon YEUNG Yiu-chung
Hon Mrs Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, JP
Hon SZETO Wah
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Hon FUNG Chi-kin
Dr Hon TANG Siu-tong, JP

Members absent :

Hon Edward HO Sing-tin, SBS, JP
Hon Albert HO Chun-yan
Hon Michael HO Mun-ka
Dr Hon David LI Kwok-po, JP
Hon Christine LOH Kung-wai
Hon CHAN Yuen-han
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, JP
Hon WONG Yung-kan
Hon Howard YOUNG, JP
Hon LAU Chin-shek, JP
Hon LAU Kong-wah
Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, SBS, JP

Clerk in attendance :

Mrs Justina LAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP	Secretary General
Mr LAW Kam-sang, JP	Deputy Secretary General
Mr LEE Yu-sung	Legal Adviser (Acting)
Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3

Ms Bernice WONG	Assistant Legal Adviser 1
Miss Anita HO	Assistant Legal Adviser 2
Miss Connie FUNG	Assistant Legal Adviser 3
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
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 16th meeting held on 3 March 2000
(*LC Paper No. CB(2)1298/99-00*)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that he had pointed out to CS that Members had noticed that there were more retrospective provisions in bills lately. CS had responded that the Administration had always tried to avoid including retrospective provisions in bills. However, it was the Administration's view that it was highly undesirable in some special circumstances to leave any lingering doubt and uncertainty, and retrospective provisions were necessary.

(b) Road Traffic (Traffic Control) (Amendment) Regulation 2000
(*LC Paper No. LS 109/99-00*)

3. The Chairman said that Mr James TO's motion to extend the scrutiny period to the Council meeting of 29 March 2000 was passed by the Council on 15 March 2000. The Chairman invited Mr TO to report on the progress of his discussion with the Administration regarding the queries raised by him.

4. Mr James TO said that he was still in discussion with the Administration about the scope of application of the new driving rule to prohibit a driver from using a mobile phone when driving a motor vehicle on a road, particularly in regard to the following two aspects -

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- (i) it was not clearly reflected in the Amendment Regulation that the new driving rule would not apply to a situation where a driver, having brought the motor vehicle to a halt in a stationary position and clear of the flow of traffic but with the engine running, used a mobile phone by holding it in his hand; and
- (ii) whether the new driving rule should not apply to the act of pressing the buttons on a mobile phone for the purpose of making a call while holding it by hand.

5. Mr TO further said that he was also seeking clarification from the Administration on other details relating to the implementation of the new driving rule. He added that he would consider proposing amendments to the Amendment Regulation should the Administration's clarification failed to address his concerns.

6. Mr Martin LEE said that he supported in principle the prohibition of the use of hand-held mobile phone while driving. However, as details on the implementation of the new driving rule were not clear, he was of the view that a subcommittee should be formed to examine the Amendment Regulation.

7. Miss Margaret NG said that the use of a hands-free kit to facilitate the use of mobile phone while driving would cause distraction to drivers and should also be prohibited.

8. Mr Ronald ARCULLI agreed with Mr LEE that a subcommittee should be formed. Mr ARCULLI added that he had reservations about the Administration's explanation that the use of a hand-held mobile phone in a motor vehicle which was in a stationary position with the engine running would not constitute an offence under the Amendment Regulation. In his view, a driver sitting in a stationary motor vehicle with the engine running could be regarded as "driving" the vehicle.

9. Mrs Miriam LAU said that the Administration briefed the Panel on Transport in October last year on the outline of the proposal to prohibit the use of hand-held mobile phones while driving, but no details of the Amendment Regulation were made available to the Panel at the time. Panel members expressed support for the proposal in principle. According to the Administration, the relevant trade organizations also raised no objection to the proposal. Mrs LAU further said that given that the Amendment Regulation was due to come into effect on 1 April 2000, the suggestion that a subcommittee be formed was not a practical one as there would not be sufficient time for the subcommittee to complete its work.

10. In response to members, the Acting Legal Adviser said that if the Amendment Regulation was not amended or repealed at the Council meeting of

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29 March 2000, the Amendment Regulation would come into operation on 1 April 2000.

11. The Chairman informed members that the deadline for giving notice of a motion to amend or repeal the Amendment Regulation was 22 March 2000. The Acting Legal Adviser added that the President's permission could be sought to waive the notice requirement if necessary.

12. Mr James TO said that he would not object to the formation of a subcommittee. However, the subcommittee should not force itself to complete its work before the Council meeting of 29 March 2000, since a series of special meetings of the Finance Committee had been scheduled to take place throughout the following week. Mr TO added that the Chairman should give notice to move a motion at the Council meeting on 29 March 2000 to repeal the Amendment Regulation to cover the eventuality that the subcommittee would not be able to complete its work before 29 March 2000.

13. Mrs Selina CHOW agreed that a motion should be moved by the Chairman to repeal the Amendment Regulation at the Council meeting on 29 March 2000 given that there were a number of grey areas in the proposal to prohibit the use of hand-held mobile phone while driving. However, she considered that a subcommittee should be formed after the Administration had come back to the Council with the Amendment Regulation.

14. Mr Ronald ARCULLI said that the advantage of forming a subcommittee immediately was that the Administration could, in the light of the views expressed by the subcommittee, introduce revised proposals for the Council's consideration within a shorter time frame.

15. Dr YEUNG Sum agreed with Mr James TO's views in paragraph 12 above. He added that if in the course of the subcommittee's deliberations a consensus could in fact be reached with the Administration before the Council meeting of 29 March 2000, the Chairman could then withdraw the notice. Failing that, the Chairman would proceed with moving the motion at the Council meeting on 29 March 2000.

16. Members agreed that a subcommittee be formed to study the Amendment Regulation. The following members agreed to join : Mrs Selina CHOW, Mr Ronald ARCULLI, Mr James TO Kun-sun and Mrs Miriam LAU Kin-ye.

17. Members further agreed that the Chairman should give notice to move a motion at the Council meeting on 29 March 2000 to repeal the Amendment Regulation. The Chairman said that he would withdraw the notice should the subcommittee reach a consensus with the Administration on the amendments to be made to the Amendment Regulation.

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(c) **Employees' Compensation (Amendment) Bill 2000**

18. Mr Ronald ARCULLI said that in the light of the Administration's reply to his query regarding the retrospectivity provision in the Bill, he considered that a Bills Committee would not be required.

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

(d) **Resolution under section 30 of the Discovery Bay Tunnel Link Ordinance (Cap. 520)**

(LC Paper No. LS 107/99-00)

20. The Acting Legal Adviser introduced the paper and said that with the Administration's clarifications as detailed in paragraph 4 (a) to (c) of the paper, the Legal Service Division was satisfied that the legal and drafting aspects of the Discovery Bay Tunnel Link Bylaw ("the Bylaw") were in order.

21. Miss Margaret NG asked whether the Bylaw was not binding on State organs or their vehicles.

22. The Acting Legal Adviser explained that as there was nothing in the Discovery Bay Tunnel Link Ordinance ("the Ordinance") to suggest that the Ordinance and the Bylaw made thereunder were binding on State organs, the Ordinance and the Bylaw did not apply to State organs or their vehicles by virtue of section 66(1) of the Interpretation and General Clauses Ordinance.

23. Miss Margaret NG said that the Administration should be asked to consider whether as a matter of policy, the Ordinance and the Bylaw should be made applicable to State organs.

24. Mrs Miriam LAU asked whether the Bylaws of other private tunnels were also not applicable to State organs or their vehicles. The Acting Legal Adviser responded that the Western Harbour Crossing Bylaw contained a similar provision.

25. The Chairman suggested that the Secretariat should request the Administration to respond to the point raised by Miss NG. Members agreed.

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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) Air Cargo Transhipment (Facilitation) Bill 2000
(LC Paper No. LS 104/99-00)

26. The Acting Legal Adviser said that the purpose of the Bill was to relax import and export control over certain categories of air cargo that were transhipped through Hong Kong by air, so as to facilitate developing Hong Kong into an international and regional air cargo hub.

27. The Acting Legal Adviser further explained that air transhipment cargoes passing through Hong Kong were currently treated as both "import" and "export" and were accordingly subject to licensing control during air transhipment. Under the proposals in the Bill, import and export licences would not be required if the above-mentioned cargoes remained within the cargo transhipment area of the Hong Kong International Airport at all times during transhipment. If any of these cargoes was removed to another area in Hong Kong, it would be considered as imported into Hong Kong at the time of its being removed from the transhipment area and the relevant import control provisions would apply.

28. Mrs Selina CHOW said that as the Administration had stated in the relevant Legislative Council (LegCo) Brief that additional safeguards would be introduced to guard against any possible abuses arising from the relaxation on import and export control over certain cargoes, she did not consider it necessary to form a Bills Committee to study the Bill. However, she was of the view that the Administration should set out details of the safeguards to be introduced during the resumption of the Second Reading debate on the Bill. Mrs Miriam LAU echoed Mrs CHOW's views and said that the enactment of the Bill would be beneficial to the air cargo industry.

29. The Acting Legal Adviser further said that the Legal Service Division was seeking clarification from the Administration on some technical points and would submit a further report.

30. The Chairman suggested that a decision on the Bill be deferred pending the Legal Services Division's further report. Members agreed.

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(ii) Securities and Futures Legislation (Provision of False Information) Bill 2000

(LC Paper No. LS 105/99-00)

31. The Acting Legal Adviser said that the purpose of the Bill was to amend securities and futures legislation to make the provision of false, misleading and incomplete information to the relevant authority a criminal offence whether the person was providing the information under a statutory obligation or in other circumstances. The Acting Legal Adviser added that as the Bill sought to impose criminal liability on a wide range of participants in the financial services sector for all reporting and supply of information activities, the Legal Service Division recommended that a Bills Committee be formed to study the Bill in detail.

32. Miss Margaret NG said that The Law Society of Hong Kong had sent in a submission to the Legal Services Division expressing grave concern about the proposals in the Bill. She suggested that a Bills Committee be formed.

33. Mr Eric LI expressed support for Miss NG's suggestion. He added that the Hong Kong Society of Accountants (HKSA) had also expressed reservations on the Bill to the Securities and Futures Commission but there was no mention of HKSA's views in the paragraph on "Public Consultation" in the relevant LegCo Brief.

34. Members agreed that a Bills Committee be formed. The following members agreed to join : Mr Eric LI Ka-cheung, Miss Margaret NG, Mr Ronald ARCULLI, Mr Bernard CHAN, Mr SIN Chung-kai (as advised by Mr James TO), Dr Philip WONG Yu-hong, Mr Jasper TSANG Yok-shing and Mr FUNG Chi-kin.

(iii) Revenue Bill 2000

(LC Paper No. LS 108/99-00)

35. The Acting Legal Adviser explained that the Bill sought to implement the proposal to reduce the rate of stamp duty on stock transactions by 10% as announced by the Financial Secretary in his Budget Speech on 8 March 2000. He added that the Legal Service Division was of the view that the legal and drafting aspects of the Bill were in order.

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

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(iv) **Karaoke Establishments Bill**
(LC Paper No. LS 101/99-00)

37. The Acting Legal Adviser introduced the paper and said that the Bill sought to provide a legal framework for establishing a statutory licensing scheme for the regulatory control of karaoke establishments to improve fire safety of these establishments. He added that details of the fire safety, building safety and health requirements for karaoke establishments would be set out in regulations to be made by the Chief Executive in Council after the enactment of the Bill.

38. The Chairman said that Administration had briefed the Panel on Security on the Bill in January 1999. Some Panel members had expressed concerns about the impact of the licensing scheme on the karaoke trade and the extent of the licensing requirements. He added that the karaoke trade had also raised concerns about the proposals in the Bill.

39. Miss Margaret NG pointed out that a large number of bills were introduced by the Administration in almost every legislative session. She was of the view that the Bills Committee, if formed, should first examine whether there was a need for a separate ordinance to deal with the fire safety and building safety of karaoke establishments, or whether there were other alternatives to achieve the purpose.

40. Mrs Selina CHOW suggested that a Bills Committee be formed. Members agreed. The following members agreed to join : Mrs Selina CHOW, Mr James TO Kun-sun, Mr CHAN Wing-chan, Mr Jasper TSANG Yok-shing, Mr Ambrose LAU Hon-chuen and Mr FUNG Chi-kin.

(b) **Legal Service Division's reports on subsidiary legislation tabled in Councils on 8 and 15 March 2000 (gazetted on 3, 4 and 10 March 2000)**

(LC Papers No. LS 103 and LS 106/99-00)

LC Paper No. LS 103/99-00

41. The Chairman introduced the paper which detailed the 10 items of subsidiary legislation gazetted on 3 and 4 March 2000.

42. Miss Margaret NG said that she needed more time to study the District Court (Fixed Costs in Matrimonial Causes) (Amendment) Rules 2000 and would seek clarification from the Legal Adviser if necessary.

43. Referring to the Mandatory Provident Fund Schemes (Exemption) Regulation (Specification of Date under sections 5 and 16) Notice (the Notice), Mr LEE Cheuk-yan expressed concern as to how employees would be made

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aware of whether their employers had obtained an exemption certificate under Part III of the Mandatory Provident Fund Schemes Ordinance. Mr LEE suggested that a subcommittee be formed to examine the Notice. Mr CHAN Wing-chan expressed support for Mr LEE's suggestion.

44. Members agreed that a subcommittee be formed. The following members agreed to join : Mr LEE Cheuk-yan, Miss CHAN Yuen-han (as advised by Mr CHAN Wing-chan), Mr CHAN Wing-chan, Mr Bernard CHAN, Mr LEUNG Yiu-chung and Mr SIN Chung-kai.

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

46. The Chairman reminded members that the deadline for amending the subsidiary legislation was 5 April 2000, or 12 April 2000 if extended by resolution.

LC Paper No. LS 106/99-00

47. Members raised no query on the subsidiary legislation gazetted on 10 March 2000.

IV. Business for the Council meeting on 29 and 30 March 2000

(a) **Questions**
(*LC Paper No. CB(3) 695/99-00*)

48. The Chairman said that 20 written questions had been scheduled.

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

49. Members noted that no notice had been received.

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

Appropriation Bill 2000
(Members speak)

50. The Chairman said that in accordance with Rule 36(5) of the Rules of Procedure, Members would each have a maximum of 15 minutes to speak.

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V. Reports

(a) **Position report on Bills Committees/subcommittees**
(LC Paper No. CB(2) 1364/99-00)

51. The Chairman said that there were eight subcommittees in action, including the two subcommittees formed earlier to study the Road Traffic (Traffic Control) (Amendment) Regulation 2000 and the Mandatory Provident Fund Schemes (Exemption) Regulation (Specification of Date under sections 5 and 16) Notice.

52. The Chairman further said that there were 16 Bills Committees in action. He added that with the formation of two Bills Committees under agenda items III (a) (ii) and (iv), there were 21 Bills Committees on the waiting list.

53. The Chairman informed members that the Bills Committee on Buildings (Amendment) Bill 2000 and the Bills Committee on Evidence (Amendment) Bill 2000 had commenced preparatory work pending activation.

(b) **Report of the Subcommittee on resolution under section 59 of the Electricity Ordinance (Cap.406)**
(LC Paper No. CB(1) 1159/99-00)

54. Dr Raymond HO Chung-tai, Chairman of the subcommittee, introduced the paper which detailed the subcommittee's deliberations on the proposed resolution seeking the Council's approval of the Electricity Supply Lines (Protection) Regulation (the Regulation) made under section 59 of the Electricity Ordinance.

55. Dr HO said that in response to the subcommittee's request, the Administration had agreed to amend the Regulation to take into account the drafting points raised by the Hong Kong Construction Association and the Legal Service Division. He added that the subcommittee supported the Administration's proposal of moving the resolution at the Council meeting on 5 April 2000.

VI. Report of the Committee on Rules of Procedure

Further review of Rule 38 and related rules in the Rules of Procedure
(LC Paper No. CB(1) 1161/99-00)

56. Mrs Selina CHOW, Chairman of the Committee on Rules of Procedure (the Committee), introduced the paper and highlighted the Committee's views on the current speaking arrangements in debates and the proposed amendments

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to Rules 33, 34 and 38 of the Rules of Procedure as detailed in paragraphs 7 to 16 of the paper. She further said that the Committee had taken the opportunity to put forward its proposed amendments to Rule 13 in respect of the decision of the House Committee on 9 July 1999 on the notice requirements for a motion of thanks to the Chief Executive for his Policy Address, which were detailed in paragraphs 17-18 of the paper. She added that subject to members' agreement, she would give notice to move a motion at the Council meeting on 5 April 2000 for the Rules of Procedure to be amended as proposed.

57. Mr James TIEN asked whether the existing arrangement for allowing Members who had not spoken to speak after the public officer had spoken would be maintained. Mrs Selina CHOW and Assistant Secretary General 1 replied in the affirmative. Assistant Secretary General 1 added that the existing arrangement allowed flexibility for a public officer to speak more than once in a motion debate.

58. Mr Ronald ARCULLI asked at which stage of the debate was the public officer allowed to speak.

59. The Chairman said that Members had urged the Administration to designate a public officer to speak both at the beginning of a motion debate and before the mover of the motion had made his reply.

60. Assistant Secretary General 3 said that the Administration had designated several public officers to speak at different stages of a debate on a few occasions in the current term. He added that the debate would be regarded to have come to a close after the mover of the motion had made his reply.

61. Members raised no objection to Mrs CHOW giving notice to move a motion at the Council meeting on 5 April 2000 to amend the Rules of Procedure in the manner as proposed by the Committee.

VII. Any other business

Letter of 24 February 2000 from Acting Consul-General of Japan in Hong Kong

(Acting Consul-General of Japan's letter of 24 February 2000 and the Chairman's letter of 28 January 2000 issued vide LC Paper no. CB(2) 1249/99-00 on 1 March 2000)

62. The Chairman suggested that he would send a short reply acknowledging receipt of the letter from the Acting Consul-General of Japan and reiterating that Members did not see the need to further discuss the matter

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as Members' views and sentiments had been expressed at the debate and recorded in the Official Record of Proceedings of the Council meeting on 12 January 2000. Members agreed.

63. There being no further business, the meeting ended at 3:20 pm.

Legislative Council Secretariat

22 March 2000