

立法會  
*Legislative Council*

LC Paper No. CB(2) 2459/99-00  
(These minutes have been cleared  
by the Chairman)

Ref : CB2/H/5

**House Committee of the Legislative Council**

**Minutes of the 29<sup>th</sup> meeting  
held in the Legislative Council Chamber  
at 5:00 pm on Friday, 23 June 2000**

**Members present :**

Dr Hon LEONG Che-hung, JP (Chairman)  
Dr Hon YEUNG Sum (Deputy Chairman)  
Hon Kenneth TING Woo-shou, 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 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 Mrs Selina CHOW LIANG Shuk-ye, 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 CHAN Kam-lam

Hon Mrs Sophie LEUNG LAU Yau-fun, JP  
Hon LEUNG Yiu-chung  
Hon Gary CHENG Kai-nam, JP  
Hon SIN Chung-kai  
Hon WONG Yung-kan  
Hon Jasper TSANG Yok-sing, JP  
Hon Howard YOUNG, JP  
Hon YEUNG Yiu-chung  
Hon LAU Chin-shek, JP  
Hon LAU Kong-wah  
Hon LAU Wong-fat, GBS, JP  
Hon Mrs Miriam LAU Kin-yee, JP  
Hon Ambrose LAU Hon-chuen, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk  
Hon Andrew CHENG Kar-foo  
Hon SZETO Wah  
Hon Timothy FOK Tsun-ting, SBS, JP  
Hon LAW Chi-kwong, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon FUNG Chi-kin  
Dr Hon TANG Siu-tong, JP

**Members absent :**

Hon James TIEN Pei-chun, JP  
Dr Hon David LI Kwok-po, JP  
Dr Hon LUI Ming-wah, JP  
Hon Ronald ARCULLI, JP  
Hon Christine LOH Kung-wai  
Hon CHAN Yuen-han  
Hon Andrew WONG Wang-fat, JP  
Dr Hon Philip WONG Yu-hong

**Clerk in attendance :**

Mrs Justina LAM Clerk to the House Committee

**Staff in attendance :**

Mr Ricky C C FUNG, JP Secretary General  
Mr Jimmy MA, JP Legal Adviser  
Mr LAW Kam-sang, JP Deputy Secretary General

Mr LEE Yu-sung	Senior Assistant Legal Adviser
Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Ms Bernice WONG	Assistant Legal Adviser 1
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
Miss Odelia LEUNG	Chief Assistant Secretary (1)1
Mr Andy LAU	Chief Assistant Secretary (1)2
Ms LEUNG Siu-kum	Chief Assistant Secretary (1)4
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
Mrs Mary TANG	Chief Assistant Secretary (1)6 (Acting)
Miss Mary SO	Senior Assistant Secretary (2)8

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**I. Confirmation of the minutes of the 28th meeting held on 16 June 2000**  
(*LC Paper No. CB(2) 2401/99-00*)

The minutes were confirmed.

**II. Matters arising**

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

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2. The Chairman said that he had relayed to Acting CS Members' disappointment that the Factories and Industrial Undertakings (Medical Examination) Regulation could not be introduced within the current session. He added that the matter would be discussed further under agenda item VI below.

**III. Legal Service Division's report on subsidiary legislation tabled in Council on 21 June 2000 (gazetted on 20 June 1999)**  
(*LC Paper No. LS 169/99-00*)

3. The Legal Adviser explained that the Financial Resources Rules (Exemption) Notice 2000 sought to exempt dealers under the Securities Ordinance from the requirement to comply with section 13(7) and (8) of the

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Financial Resources Rules, subject to them complying with certain conditions specified in the Notice.

4. The Legal Adviser informed members that the deadline for amending the Notice was the second meeting of the Council in the next session, or the third meeting of the Council in the next session if extended by resolution.

#### IV. Reports

(a) **Position report on Bills Committees/Subcommittees**  
(LC Paper No. CB(2) 2413/99-00)

5. The Chairman said that scrutiny of all the bills accorded priority by the Administration had been completed. He added that there were still 12 Bills Committees on the waiting list. He suggested that the Administration be requested to introduce the bills concerned as soon as possible after the commencement of the new legislative session in order that scrutiny work could start at an early date. Members agreed.

6. The Chairman further said that five subcommittees had completed work and would report under items (f) to (j) below.

(b) **Report of the Bills Committee on Dangerous Drugs, Independent Commission Against Corruption and Police Force (Amendment) Bill 1999**  
(LC Paper No. CB(2) 2419/99-00)

7. Mr James TO, Chairman of the Bills Committee, said that he had made a verbal report on the deliberations of the Bills Committee on 16 June 2000. He added that the Bills Committee supported the Committee Stage amendments (CSAs) to be moved by the Administration, but members had divergent views on his proposed CSAs in Appendix III of the paper.

(c) **Report of the Bills Committee on Urban Renewal Authority Bill**  
(LC Paper No. CB(1) 1901/99-00)

8. Introducing the paper, Mr Edward HO, Chairman of the Bills Committee, said that Mr LEE Wing-tat had made a verbal report on the deliberations of the Bills Committee on 16 June 2000. He added that apart from the Administration's proposed CSAs, three members of the Bills Committee would propose CSAs to the Bill on their own.

9. Mr HO further said that the Bill did not spell out how certain policy aspects of the new urban renewal strategy would be implemented. He would, when presenting the Bills Committee's report during the resumption of Second

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Reading debate on the Bill at the Council meeting of 26 June 2000, highlight the issues which the Administration had pledged to address after the enactment of the Bill. The Administration had also been requested to reaffirm such pledges in its reply to be made during the debate.

10. Assistant Secretary General 3 said that the President had already ruled that the CSAs proposed separately by three Members were in order. As for Mr LEE Win-tat's proposed CSAs concerning ex-gratia allowance, the Administration had responded that the CSAs had a "charging effect" within the meaning of Rule 57(6) of the Rules of Procedure. Assistant Secretary General 3 added that Mr LEE's CSAs were being considered by the President and Members would be notified of the President's ruling as soon as practicable.

**(d) Report of the Bills Committee on Road Traffic Legislation (Amendment) Bill 2000**

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*(LC Paper No. CB(1) 1899/99-00)*

11. Mr CHAN Kwok-keung said that in addition to the CSAs proposed by Mr Andrew CHENG and Mrs Miriam LAU as mentioned in paragraph 26 of the paper, Mr LAU Kong-wah had also given notice to move CSAs to maintain the penalties for speeding in excess of the speed limit by 30-45 km/h at the existing levels.

**(e) Report of the Bills Committee on Intellectual Property (Miscellaneous Amendments) Bill 2000**

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*(LC Paper No. CB(1) 1904/99-00)*

12. Mr SIN Chung-kai, Chairman of the Bills Committee, said that he did not have anything to add to the verbal report made by Mr MA Fung-kuok on 16 June 2000.

**(f) Report of the Subcommittee on regulations relating to occupational safety and health**

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*(LC Paper No. CB(2) 2420/99-00)*

13. Mr Andrew CHENG, Chairman of the Subcommittee, said that he had made a verbal report on the subcommittee's deliberations on the proposed Factories and Industrial Undertakings (Medical Examination) Regulation on 16 June 2000. Mr CHENG drew members' attention to paragraphs 23 to 34 of the paper detailing the subcommittee's deliberations on the implications of the proposed medical examination arrangements on workers' employment and benefits, which were related to his motion to be debated under agenda item VI below.

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**(g) Report of the Subcommittee to follow up on the outstanding capital works projects of the two Provisional Municipal Councils for inclusion into the Government's Public Works Programme**  
*(LC Paper No. CB(2) 2421/99-00)*

14. Mr Fred LI introduced the paper which detailed the subcommittee's discussions with the Administration and three District Councils on the progress of the outstanding capital works projects of the former Provisional Municipal Councils.

15. Mr LI said that as many of these projects were still under review by the Government, the subcommittee had requested the Government to provide a progress report in October 2000 to the Council for consideration.

**(h) Report of the Subcommittee on payment of honoraria to Government boards and committees**  
*(LC Paper No. CB(1) 1903/99-00)*

16. Mr Gary CHENG Kai-nam, Chairman of the subcommittee, introduced the paper which detailed the subcommittee's findings and recommendations on the payment of honoraria to non-official members serving on Government boards and committees. He highlighted in particular the subcommittee's deliberations on the remuneration for boards/committees of financially autonomous bodies and the need for an overall review, as detailed in paragraphs 17 to 18 and paragraphs 20 to 21 of the paper respectively.

17. Mr CHENG said that as the Administration had not undertaken to conduct a general review on the operation of the current Government committees as well as the remuneration policy for non-official members, the subcommittee had recommended that the Chairman of the House Committee should write to CS on the need for conducting such a review. The subcommittee had also recommended that the matter should be followed up by the House Committee in the next session. Members expressed support for the recommendations of the subcommittee.

**(i) Report of the Subcommittee on Securities and Futures Bill**  
*(LC Paper No. CB(1) 1902/99-00)*

18. Introducing the paper on behalf of Mr Ronald ARCULLI, Chairman of the subcommittee, Mr Albert HO said that the paper provided a summary of the concerns raised by members of the subcommittee on the proposals in the White Bill to overhaul the legislation governing the securities and futures market.

19. Mr HO further said that given the complexity of the issues involved and the far-reaching impact on the securities and futures market, the subcommittee

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had recommended that a Bills Committee should be formed to study the Bill after its introduction into the Council at the start of the next session.

**(j) Report of the Subcommittee on Resolution under section 4(2) of the Dutiable Commodities Ordinance (Cap. 109)**  
*(LC Paper No. CB(1) 1907/99-00)*

20. Mr SIN Chung-kai, Chairman of the Subcommittee, said that the Administration had taken on board the subcommittee's views and agreed to advance the effective date for introducing the concessionary duty rate for ultra low sulphur diesel (ULSD) to 7 July 2000, and also to add a new provision to the effect that the concessionary duty rate for ULSD would be \$1.11 from 7 July 2000 to 31 December 2000.

21. Mr SIN further said that the subcommittee supported the Administration seeking the President's permission to dispense with the notice requirement for moving a "revised" resolution at the Council meeting of 26 June 2000.

**(k) Report of the Panel on Housing regarding Cottage Area Clearance**

22. Mr LEE Wing-tat, Chairman of the Panel, said that as agreed by the House Committee at its meeting on 9 June 2000, the Chairman of the House Committee had written to the Chief Executive requesting that favourable consideration should be given to the granting of a special ex-gratia allowance to affected Cottage Area residents for the loss of their building structures. However, at the special meeting of the Panel on 16 June 2000, the Secretary for Housing still maintained the Administration's stance of not providing a special ex-gratia allowance to Cottage Area residents. The Panel was of the view that the Administration's rejection of the Panel's request, which had the unanimous support of all the political groupings in LegCo, had further undermined the relationship between the executive and the legislature. The Panel considered that it should reflect to the House Committee the Panel's disappointment at the Administration's negative response and seek members' views on the way forward.

23. The Chairman said that the Chief Executive had yet to respond to his letter. The Chairman suggested that the matter be followed up by the Panel in the next session. Members agreed.

**V. Paper of the Committee on Rules of Procedure on proposed amendments to House Rules - rule 7(a) and new rule 19A**  
*(LC Paper No. CB(1) 1915/99-00)*

24. Mrs Selina CHOW, Chairman of the Committee, introduced the paper and drew members' attention to Appendices I and II of the paper which set out

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the amendments to be made to the House Rules following the passage of the resolution on the amendments to the Rules of Procedure at the Council meeting of 21 June 2000.

25. Members endorsed the proposed amendments to the House Rules in Appendices I and II of the paper.

**VI. Any other business**

**(a) Motion to be moved by Hon Andrew CHENG Kar-foo**

*(Secretary for Education and Manpower (SEM)'s letter of 21 June 2000 issued vide LC Paper No. CB(2) 2442/99-00)*

*(Mr Andrew CHENG's letter of 23 June 2000 tabled at the meeting and issued vide LC Paper No. CB(2) 2458/99-00 on 26 June 2000)*

26. Before inviting Mr Andrew CHENG to speak, the Chairman said that, if required, a representative of the Education and Manpower Bureau (EMB) would be present at the meeting to provide clarification on members' queries, if any, on the content of SEM's letter. The Chairman added that it was up to members to decide whether they wished the EMB's representative to attend the meeting for the discussion of this item.

27. Mrs Selina CHOW said that she considered it neither necessary nor appropriate for a public officer to participate in the discussion of House Committee agenda items. She further said that as far as she was aware, no public officer had ever attended a regular meeting of the House Committee. In her view, to allow a public officer to attend the House Committee meeting on this occasion would set a precedent which might lead to similar requests being made by the Administration in the future. Messrs TAM Yiu-chung, CHAN Kam-lam, CHAN Wing-chan and Dr YEUNG Sum echoed Mrs CHOW's views.

28. Mr Albert HO was of the view that given the content of Mr CHENG's motion, the Administration should have the opportunity to provide clarification in case queries were raised by members.

29. The Chairman said that as the majority of views expressed at the meeting were against the presence of public officers at House Committee meetings, he would not call upon the EMB's representative to be present at the meeting.

30. Mr Andrew CHENG then explained the reasons for his giving notice to move a motion of regret on behalf of Members belonging to the Democratic party, which were detailed in his letter tabled at the meeting.



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31. Messrs CHAN Wing-chan and TAM Yiu-chung said that they did not support the motion. They added that while they were disappointed that the Factories and Industrial Undertakings (Medical Examination) Regulation could not be introduced within the current session, they supported the Administration's withdrawal of the Regulation which contained a number of grey areas that needed to be addressed by the Administration first. They also pointed out that at the meeting of the subcommittee on 13 June 2000, representatives of the Hong Kong Construction Industry Employees General Union had indicated that they preferred a deferment of the enactment of the Regulation unless specific provisions were made in the Regulation stipulating the payment of compensation to the affected employees.

32. Mrs Selina CHOW said that she was surprised at Mr CHENG's motion of regret, given the divergent views among members of the subcommittee regarding the Administration's decision to defer the introduction of the Regulation. She was of the view that the motion should not be supported.

33. Mr HO Sai-chu, Professor NG Ching-fai and Mrs Sophie LEUNG concurred with Mrs CHOW. Mr HO also drew members' attention to paragraphs 32 and 33 of the paper which detailed the subcommittee's deliberations on the Administration's deferment of the Regulation pending amendment to the Factories and Industrial Undertakings Ordinance.

34. Mr LEE Cheuk-yan said that the motion of regret was directed at the Administration's failure to address the concern about the temporary suspension arrangements raised by the subcommittee at an early stage of its deliberations, rather than the Administration's decision to defer introduction of the Regulation.

35. Mr LEE Kai-ming said that despite the deferment of the Regulation, the time and efforts spent by the subcommittee had not been wasted as a number of problems were brought to light as a result of the subcommittee's scrutiny of the Regulation. He added that the Administration had done its best to provide written response expeditiously to the subcommittee's queries. He therefore considered it inappropriate for Mr CHENG to move a motion expressing dissatisfaction with the way the Administration had handled the matter.

36. The Chairman then invited Mr Andrew CHENG to move his motion.

37. Mr Andrew CHENG moved the following motion -

“That the House Committee deeply regrets that, notwithstanding Members’ concerns raised on the incompatibility of the Factories and Industrial Undertakings (Medical Examination) Regulation with the Employment Ordinance, the Government has repeatedly neglected such concerns and failed to make appropriate amendments when the

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Regulation was scrutinized by the Subcommittee on Regulations relating to Occupational Safety and Health, and thus wasted the resources and time of the Legislative Council, rendering the deliberation of the Regulation eventually unfinished by the end of this session.”

38. The Chairman put Mr CHENG's motion to vote. The results were seven members voted in favour of the motion, 18 members voted against it and one member abstained. The Chairman declared that Mr CHENG's motion was not carried.

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

*(Secretary for Home Affairs's two letters of 23 June 2000 tabled at the meeting and issued vide LC Paper No. CB(2) 2458/99-00 on 26 June 2000)*

39. The Chairman asked the Legal Adviser to explain the contents of the two letters from the Administration.

40. The Legal Adviser said that one of the two letters contained an information note concerning the consequences of voting on the CSAs to amend clause 3. According to the Administration, the CSAs to amend clause 3 were divided into two parts for Members' consideration separately. The first part consisted of the two CSAs proposed by the Administration and Mr LEE Wing-tat to amend new section 3(3), which enabled 10% of the owners of new buildings to convene an owners' meeting to consider the formation of an owners' corporation, and to add new section 3(4). As the two CSAs concerned were not passed, only the original new section 3(3) in the Bill remained.

41. The Legal Adviser explained that the Administration had pointed out that the second part of the CSAs to clause 3 sought to amend section 3(2) of the Building Management Ordinance (BMO) to change the requirement for formation of owners' corporations in existing buildings from 50% of undivided shares to 30% of undivided shares, and other consequential amendments. The Administration had advised that on the assumption that Members voted in favour of the second part of the CSAs to clause 3, then at the point when the question that clause 3 as amended stand part of the Bill was put to vote, clause 3 would comprise mainly the new section 3(3) originally in the Bill and the amendments to change the requirement in section 3(2) of the BMO from 50% to 30%. Members would thus have to decide whether to accept the amended clause 3 as a whole or not.

42. The Legal Adviser further explained that the Administration had also advised that if Members decided to vote against acceptance of clause 3 as part of the Bill, then new section 3(3) and the 50% to 30% proposal as a package would not become part of the Bill. In that case, certain consequential

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amendments concerning the reference to new section 3(3) which appeared in other CSAs to the Bill would become irrelevant and need to be removed.

43. Referring to the other letter which was addressed to the President, the Legal Adviser said that its purpose was to seek the President's permission to dispense with the notice requirement for the resumption of the proceedings of the committee of the whole Council on the Bill and the moving of the remaining CSAs to clause 3 at the Council meeting of 26 June 2000.

44. Messrs Gary CHENG, LEE Wing-tat, Albert HO and CHAN Kam-lam were of the view that there should be separate votes on each of the following two components in clause 3 -

- (a) the proposed new section 3(3) which enabled 10% of the owners of new buildings to convene an owners' meeting to form an owners' corporation; and
- (b) the CSA which sought to change the requirement of formation of owners' corporations in existing buildings from 50% of undivided shares to 30% of undivided shares.

45. Assistant Secretary General 3 said that the Secretariat would look into whether procedurally Members could vote on each of the two components in clause 3 separately.

46. Mr Jasper TSANG said that he had reservations about whether the two components in clause 3 could be put to separate votes.

47. Mr Albert HO said that suspending a particular Rule of the Rules of Procedure to facilitate separate voting of the two components concerned should be avoided.

48. Mr Martin LEE suggested that in order to facilitate Members' consideration of the provisions in clause 3 and the related CSAs, the Legal Adviser should, prior to the resumption of proceedings of the committee of the whole Council on the Bill, provide an opinion in writing on the following two aspects -

- (a) whether it was procedurally in order for the Administration to give notice of the CSAs in question at this stage; and
- (b) the consequences on the provisions in clause 3 if the two components referred to in paragraph 44 above were put to separate votes.

Dr YEUNG Sum expressed support for Mr LEE's suggestion.

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49. The Chairman instructed the Legal Adviser to provide an information paper as requested by members.

50. The Chairman said that as this was the last House Committee meeting of the term, he wished to thank the Deputy Chairman, other Members and the LegCo Secretariat for their support. Mr Martin LEE and Mr HO Sai-chu, on behalf of members present, thanked the Chairman and the Deputy Chairman.

51. There being no further business, the meeting ended at 6:40 pm.

Legislative Council Secretariat

5 July 2000