

立法會
Legislative Council

LC Paper No. CB(1)2399/01-02
(These minutes have been seen
by the Administration)

Ref : CB1/BC/12/01

**Bills Committee on
Public Officers Pay Adjustment Bill**

**Minutes of third meeting held on
Monday, 17 June 2002 at 4:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Eric LI Ka-cheung, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Hon LAU Chin-shek, JP
Hon Emily LAU Wai-hing, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok

Members absent : Hon Cyd HO Sau-lan
Hon LEE Cheuk-yan
Hon Andrew WONG Wang-fat, JP
Dr Hon Philip WONG Yu-hong
Hon YEUNG Yiu-chung, BBS
Hon CHOY So-yuk
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Dr Hon LO Wing-lok

Public officers attending : Mrs Jessie TING
Deputy Secretary for the Civil Service (2)

Mr Ian WINGFIELD
Law Officer (Civil Law)
Department of Justice

Mr David MORRIS
Deputy Law Draftsman
Department of Justice

Mr Stanley YING
Deputy Secretary for the Treasury (1)

Ms Bernadette LINN
Principal Assistant Secretary for the Treasury (B)

Mrs Cherry TSE
Deputy Secretary for Education and Manpower (2)

Ms Monica LAW
Senior Assistant Law Draftsman
Department of Justice

Ms Gloria LO
Assistant Secretary for the Civil Service (2)

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Mr Jimmy MA
Legal Adviser

Miss Kitty CHENG
Assistant Legal Adviser 5

Ms Rosalind MA
Senior Assistant Secretary (1)9

Action

I. Meeting with the Administration

- (LC Paper No. CB(1)2004/01-02(01) — “Follow-up to the first meeting on 12 June 2002” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)2004/01-02(02) — “Follow-up to the second meeting on 13 June 2002” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)2004/01-02(03) — Submission dated 13 June 2002 from the Convenor of the Heads of Universities Committee
- LC Paper No. CB(1)2004/01-02(04) — Paper provided by the Administration on “2002 Civil Service Pay Adjustment: Impact on subvented sector”
- LC Paper No. CB(1)2004/01-02(05) — Paper provided by the Administration)

The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up action to be taken by the Administration

2. Members noted the booklet entitled “Guidelines on what to do if wage reduction and retrenchments are unavoidable” tabled at the meeting by the Administration. Members sought clarification from the Administration on sections 2.3 and 2.6 of the Guidelines, which provided that it was an offence for employers to unilaterally introduce wage reductions without securing their employees’ agreement. The Law Officer (Civil Law) of the Department of Justice advised that under the Employment Ordinance (Cap. 57), any variation of the contract of employment would be an offence if such variation was not made in accordance with the provisions of the Ordinance. Variation of contract was allowed under the Employment Ordinance if this was made for valid reasons set out in section 32K of the

Admin

Ordinance. In view of the Administration's advice, members saw the need to review sections 2.3 and 2.6 of the Guidelines to reflect the provisions of the Ordinance more accurately. The Deputy Secretary for the Treasury (1) undertook to reflect members' views to the Labour Department.

Date of next meeting

3. Members noted that the fourth meeting of the Bills Committee would be held on Tuesday, 18 June 2002 at 4:30 pm and that representatives of the four central consultative councils, major civil service unions and Law Society of Hong Kong would attend the meeting.

II. Any other business

4. There being no other business, the meeting ended at 7:10 pm.

Legislative Council Secretariat

2 August 2002

**Proceedings of the third meeting of the
Bills Committee on Public Officers Pay Adjustment Bill
on Monday, 17 June 2002 at 4:30 pm
in the Chamber of the Legislative Council Building**

| Time | Speaker | Subject(s) | Action required |
|--|------------------|--|-----------------|
| <i>Agenda Item I — Meeting with the Administration</i> | | | |
| 000000 - 000412 | Chairman | Welcoming and introductory remarks | |
| 000412 - 001216 | Administration | Briefing on the precedents where (a) the Administration's decision was implemented by one-off legislation ; and (b) the legislation enacted had deprived the employees or other groups in the community of their existing rights | |
| 001216 - 001239 | Mr LAU Chin-shek | Impact of civil service pay reduction on the subvented sector | |
| 001239 - 001300 | Chairman | -ditto- | |
| 001300 - 001452 | Ms Audrey EU | Precedents where (a) the Administration's decision was implemented by one-off legislation ; and (b) the legislation enacted had deprived the employees or other groups in the community of their existing rights | |
| 001452 - 001659 | Administration | -ditto- | |
| 001659 - 001813 | Ms Audrey EU | -ditto- | |

| Time | Speaker | Subject(s) | Action required |
|-----------------|------------------|--|------------------------|
| 001813 - 001942 | Administration | -ditto- | |
| 001942 - 002245 | Miss Margaret NG | Whether legislation was the only means of implementing civil service pay reduction | |
| 002245 - 002341 | Administration | -ditto- | |
| 002341 - 002357 | Miss Margaret NG | -ditto- | |
| 002357 - 002406 | Administration | -ditto- | |
| 002406 - 002524 | Miss Margaret NG | Reasons why the variation clause in the Memorandum on Conditions of Service (MOCS) applicable to civil servants was not sufficient for enabling the Government to implement civil service pay reduction unilaterally | |
| 002524 - 002547 | Administration | -ditto- | |
| 002547 - 002556 | Miss Margaret NG | -ditto- | |
| 002556 - 002602 | Administration | -ditto- | |
| 002602 - 002648 | Miss Margaret NG | -ditto- | |
| 002648 - 002712 | Administration | -ditto- | |
| 002712 - 002722 | Miss Margaret NG | -ditto- | |
| 002722 - 002925 | Administration | -ditto- | |
| 002925 - 003002 | Chairman | Whether legislation was the only means of implementing civil service pay reduction | |
| 003002 - 003013 | Administration | -ditto- | |
| 003013 - 003142 | Ms Emily LAU | Precedents where the legislation enacted had deprived the employees or other groups in the community of their existing rights | |
| 003142 - 003339 | Administration | -ditto- | |
| 003339 - 003517 | Ms Emily LAU | Implementation of pay reduction through legislation would deprive civil servants of their rights under employment contract | |
| 003517 - 003615 | Administration | Decision of pay reduction was made in accordance with the existing pay adjustment | |

| Time | Speaker | Subject(s) | Action required |
|-----------------|---------------------|--|------------------------|
| | | mechanism | |
| 003615 - 003624 | Ms Emily LAU | Appointment of a Committee of Inquiry to handle the pay adjustment disputes | |
| 003624 - 003824 | Mr Albert HO | Proposal to introduce a general enabling legislation on civil service pay adjustment mechanism to provide the legal framework for implementing upward and downward pay adjustments | |
| 003824 - 003920 | Administration | -ditto- | |
| 003920 - 003941 | Mr Albert HO | -ditto- | |
| 003941 - 004050 | Mr LAU Chin-shek | Justifications for implementing pay reduction through legislation | |
| 004050 - 004155 | Administration | -ditto- | |
| 004155 - 004231 | Mr LAU Chin-shek | -ditto- | |
| 004231 - 004400 | Administration | -ditto- | |
| 004400 - 004630 | Miss Margaret NG | Whether pay reduction implemented through legislation would contravene Articles 6, 100 and 105 of the Basic Law | |
| 004630 - 004707 | Administration | -ditto- | |
| 004707 - 004738 | Chairman | -ditto- | |
| 004738 - 004930 | Administration | -ditto- | |
| 004930 - 005121 | Miss Margaret NG | -ditto- | |
| 005121 - 005237 | Administration | -ditto- | |
| 005237 - 005258 | Miss Margaret NG | -ditto- | |
| 005258 - 005350 | Administration | -ditto- | |
| 005350 - 005530 | Mr James TIEN | Effectiveness of the existing civil service pay adjustment mechanism | |
| 005530 - 005630 | Administration | -ditto- | |
| 005630 - 005735 | Mr HUI Cheung-ching | Justifications for implementing pay reduction through legislation | |
| 005735 - 005806 | Administration | -ditto- | |
| 005806 - 005858 | Mr IP Kwok-him | Whether pay reduction | |

| Time | Speaker | Subject(s) | Action required |
|-----------------|---------------------|---|------------------------|
| | | implemented through legislation would contravene Article 100 of the Basic Law | |
| 005858 - 005958 | Administration | Whether pay reduction implemented through legislation would contravene Article 100 of the Basic Law | |
| 005958 - 010016 | Mr IP Kwok-him | -ditto- | |
| 010016 - 010152 | Administration | -ditto- | |
| 010152 - 010256 | Ms Audrey EU | Whether the decision of pay reduction was made in accordance with the existing pay adjustment mechanism | |
| 010256 - 010318 | Chairman | -ditto- | |
| 010318 - 010323 | Ms Audrey EU | -ditto- | |
| 010323 - 010417 | Chairman | -ditto- | |
| 010417 - 010929 | Administration | Impact of civil service pay reduction on the subvented sector | |
| 010929 - 011135 | Mr LAU Chin-shek | Difficulties encountered by subvented organizations in implementing pay reduction | |
| 011135 - 011314 | Administration | -ditto- | |
| 011314 - 011329 | Mr LAU Chin-shek | -ditto- | |
| 011329 - 011420 | Administration | -ditto- | |
| 011420 - 011430 | Mr LAU Chin-shek | -ditto- | |
| 011430 - 011455 | Administration | -ditto- | |
| 011455 - 011656 | Ms Emily LAU | -ditto- | |
| 011656 - 012029 | Administration | -ditto- | |
| 012029 - 012137 | Ms Emily LAU | -ditto- | |
| 012137 - 012336 | Administration | -ditto- | |
| 012336 - 012347 | Ms Emily LAU | -ditto- | |
| 012347 - 012630 | Administration | -ditto- | |
| 012630 - 012832 | Mr CHEUNG Man-kwong | -ditto- | |
| 012832 - 013218 | Administration | -ditto- | |
| 013218 - 013335 | Mr CHEUNG Man-kwong | -ditto- | |
| 013335 - 013422 | Administration | -ditto- | |
| 013422 - 013526 | Mr CHEUNG Man-kwong | -ditto- | |
| 013526 - 013745 | Administration | -ditto- | |
| 013745 - 013947 | Mr Michael MAK | Impact of civil service pay | |

| Time | Speaker | Subject(s) | Action required |
|-----------------|--------------------|---|-----------------|
| | | reduction on the provision of services by the subvented organizations | |
| 013947 - 014242 | Administration | Impact of civil service pay reduction on the provision of services by the subvented organizations | |
| 014242 - 014500 | Mr Michael MAK | -ditto- | |
| 014500 - 014835 | Administration | -ditto- | |
| 014835 - 015004 | Mr LEUNG Yiu-chung | Whether employers in the subvented sector would be forced to act against the law by altering the terms of employment contracts unilaterally | |
| 015004 - 015210 | Administration | -ditto- | |
| 015210 - 015230 | Chairman | -ditto- | |
| 015230 - 015300 | Administration | -ditto- | |
| 015300 - 015552 | Mr LEUNG Yiu-chung | -ditto- | |
| 015552 - 015621 | Administration | -ditto- | |
| 015621 - 015700 | Mr LEUNG Yiu-chung | -ditto- | |
| 015700 - 015752 | Administration | -ditto- | |
| 015752 - 015838 | Mr LEUNG Yiu-chung | -ditto- | |
| 015838 - 015955 | Administration | -ditto- | |
| 015955 - 020427 | Mr Eric LI | Difficulties encountered by subvented organizations in implementing pay reduction | |
| 020427 - 020815 | Administration | -ditto- | |
| 020815 - 020844 | Mr Eric LI | -ditto- | |
| 020844 - 021008 | Administration | -ditto- | |
| 021008 - 021308 | Mr James TIEN | Possibility for the Administration to offer tide over financial assistance to subvented organizations to meet their need for termination compensation to staff who refused to give consent to pay reduction | |
| 021308 - 021529 | Administration | -ditto- | |

| Time | Speaker | Subject(s) | Action required |
|-----------------|-----------------|--|------------------------|
| 021529 - 021615 | Chairman | -ditto- | |
| 021615 - 021710 | Mr James TIEN | -ditto- | |
| 021710 - 021805 | Mr Howard YOUNG | Difficulties encountered by subvented organizations in implementing pay reduction | |
| 021805 - 021842 | Chairman | -ditto- | |
| 021842 - 021948 | Administration | Difficulties encountered by subvented organizations in implementing pay reduction | |
| 021948 - 022038 | Mr Howard YOUNG | -ditto- | |
| 022038 - 022105 | Chairman | -ditto- | |
| 022105 - 022152 | Administration | -ditto- | |
| 022152 - 022204 | Mr Howard YOUNG | -ditto- | |
| 022204 - 022252 | Administration | -ditto- | |
| 022252 - 022416 | Ms Audrey EU | Impact of civil service pay reduction on the remuneration packages of subvented staff | |
| 022416 - 022428 | Chairman | -ditto- | |
| 022428 - 022512 | Administration | -ditto- | |
| 022512 - 022534 | Ms Audrey EU | -ditto- | |
| 022534 - 022601 | Administration | -ditto- | |
| 022601 - 022838 | Mr IP Kwok-him | Proposed improvements in the write-up of Section 2.3 and 2.6 of the "Guidelines on what to do if wage reductions and retrenchments are unavoidable" published by the Labour Department | |
| 022838 - 022944 | Chairman | -ditto- | |
| 022944 - 023108 | Administration | -ditto- | Admin |
| 023108 - 023140 | Mr IP Kwok-him | -ditto- | |
| 023140 - 023218 | Chairman | Date of next meeting | |

Note: The audio records of the above proceedings are kept at the Legislative Council Library

Legislative Council Secretariat

2 August 2002