

立法會  
*Legislative Council*

LC Paper No. CB(2) 2324/01-02

Ref : CB2/H/5

**House Committee of the Legislative Council**

**Minutes of the 27th meeting  
held in the Legislative Council Chamber  
at 4:30 pm on Friday, 14 June 2002**

**Members present :**

Hon Mrs Selina CHOW LIANG Shuk-yee, JP (Chairman)  
Hon Fred LI Wah-ming, JP (Deputy Chairman)  
Hon Kenneth TING Woo-shou, JP  
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 Martin LEE Chu-ming, SC, JP  
Hon Eric LI Ka-cheung, JP  
Dr Hon LUI Ming-wah, JP  
Hon NG Leung-sing, JP  
Hon Margaret NG  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon HUI Cheung-ching, JP  
Hon CHAN Kwok-keung  
Hon CHAN Yuen-han, JP  
Hon Bernard CHAN  
Hon CHAN Kam-lam  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon SIN Chung-kai  
Hon Andrew WONG Wang-fat, JP  
Dr Hon Philip WONG Yu-hong  
Hon WONG Yung-kan  
Hon Jasper TSANG Yok-sing, JP  
Hon Howard YOUNG, JP  
Dr Hon YEUNG Sum  
Hon YEUNG Yiu-chung, BBS  
Hon LAU Chin-shek, JP  
Hon LAU Kong-wah

Hon LAU Wong-fat, GBS, JP  
Hon Miriam LAU Kin-ye, JP  
Hon Ambrose LAU Hon-chuen, GBS, 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 TAM Yiu-chung, GBS, JP  
Dr Hon TANG Siu-tong, JP  
Hon Abraham SHEK Lai-him, JP  
Hon LI Fung-ying, JP  
Hon Henry WU King-cheong, BBS  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Michael MAK Kwok-fung  
Hon Albert CHAN Wai-yip  
Hon LEUNG Fu-wah, MH, JP  
Dr Hon LO Wing-lok  
Hon WONG Sing-chi  
Hon Frederick FUNG Kin-kee  
Hon IP Kwok-him, JP  
Hon LAU Ping-cheung  
Hon Audrey EU Yuet-mee, SC, JP

**Members absent :**

Hon Cyd HO Sau-lan  
Hon LEE Cheuk-yan  
Dr Hon David LI Kwok-po, GBS, JP  
Hon LEUNG Yiu-chung  
Hon LAW Chi-kwong, JP  
Hon MA Fung-kwok

**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 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
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
Miss Kitty CHENG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Monna LAI	Assistant Legal Adviser 7
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Miss Becky YU	Chief Assistant Secretary (1)1
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Betty MA	Senior Assistant Secretary (2)1

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**I. Confirmation of the minutes of the 26th meeting held on 7 June 2002**  
(*LC Paper No. CB(2) 2249/01-02*)

The minutes were confirmed.

**II. Matters arising**

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

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Chief Executive (CE)'s Question and Answer Session

2. The Chairman said that she had advised CS of the suggestion of the Panel on Manpower to invite CE to brief Members on the revised reorganisation proposals under the accountability system, and the suggestion of the House Committee that the last CE's Question and Answer Session in the legislative session could be held before 19 June 2002 so that CE could brief Members on that occasion. The Chairman added that she had also written to CE and a reply was awaited.

3. The Chairman further said that CS had commented that the government officials concerned had tried their best to explain the proposals to Members at the meetings of the Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues. He understood that CE was very busy these days and doubted if the Question and Answer Session could be

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held before 19 June 2002. Nevertheless, he undertook to relay the request to CE.

CS's press briefing on the Home Ownership Scheme policy on 5 June 2002

4. The Chairman said that she had conveyed to CS Members' concerns about the Administration's arrangement for the announcement on the Home Ownership Scheme policy on 5 June 2002.

5. The Chairman informed Members that CS had responded that he had always regarded as his mission to improve the relationship between the Administration and the Legislature. The Administration would always brief the Legislative Council (LegCo) when changes in government policies and need for financial resources were involved. He had pointed out that as far as promptly briefing the Legislature was concerned, the Administration was ahead of many advanced countries. As regards the particular incident, CS considered that since the subject was commercially sensitive, the announcement had to be made after the stock market had closed, and Members were informed at the same time when the press briefing was held.

6. The Chairman further said that CS had pointed out that he had informed the Chairman and Deputy Chairman of the Panel on Housing beforehand, and it was up to them to consider whether or not to inform other Members. CS had enquired whether there was any channel for Members to be briefed at short notice, and had suggested that to ensure there was no delay, information briefs could be sent to Members electronically in future.

7. The Chairman said that both the Deputy Chairman and herself disagreed that the Administration should brief Members only on matters which required their support. She had told CS that she saw no reason why LegCo could not be briefed before the press briefing, as briefings had been arranged at short notice in the past. The Deputy Chairman had also complained to CS about the manner in which the information brief on the Home Ownership Scheme was sent to him. The Deputy Chairman had emphasised to CS that LegCo had a monitoring role to play.

8. The Chairman informed Members that CS had expressed his worry about the negative effect of briefings given to Panels, as Members tended to take a confrontational attitude during the questioning segment of briefings. Nevertheless, he would look into ways of improving the situation and had no objection to briefing LegCo as long as arrangement could be made at short notice.

9. The Chairman said that CS gave her the impression that it was the Administration's considered move to only brief the press on 5 June 2002, as it

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hoped to make the announcement in a more "neutral" forum than a Panel meeting. The Chairman further said that the Deputy Chairman and herself had made it very clear to CS that the approach adopted on this occasion was not acceptable. They had also stressed that LegCo had a monitoring role to play, and the Administration should make important announcements at LegCo meetings. If an important announcement had to be made urgently on other days, the Chairmen and Deputy Chairmen of the relevant Panels should be the contact points, and they would decide whether briefings for Members should be arranged, or whether issuing information briefs would suffice.

10. Dr YEUNG Sum said that he was even more worried than before to learn that CS had taken such a narrow view that the Administration would only need to brief LegCo on legislative and financial proposals when Members' support was required. Dr YEUNG further said that it was the responsibility of a good government to listen to views, including dissenting views. He considered it totally unacceptable if the Government aimed only to solicit favourable feedback on its policies.

11. Ms Emily LAU stressed that the Administration should brief Members on important announcements or matters at Council meetings. Ms LAU agreed with the Chairman that if such announcements had to be made on days other than Wednesdays, the Chairmen and Deputy Chairmen of the relevant Panels should be informed, and they would decide whether briefings should be held. Ms LAU said that Members would not object to holding urgent briefings on important matters at short notice. Ms LAU further said that she saw no reason why the Administration should worry about the "negative effect" of briefings given to Members, if the Administration had all along consulted LegCo on important policies or matters.

12. Mr CHEUNG Man-kwong said that only a socialist society would not allow its people to criticise its government. Mr CHEUNG further said that if CS had tried to avoid Members' criticisms by not briefing LegCo on the Home Ownership Scheme policy on 5 June 2002, he would only give the impression that the Government was not willing to communicate with LegCo, and this was contrary to the objective of introducing an accountability system for principal officials.

13. Mr Albert HO, Chairman of the Panel on Housing, informed Members that prior to the press conference on 5 June 2002, CS had telephoned him around 2:00 pm on that day about the press announcement, and asked him not to release the information until after 4:45 pm. Mr HO said that as he could not tell other Members of the announcement, the notification by CS was not conducive to improving the communication between the Administration and LegCo. Mr HO further said that if Members had anything negative to say about the announcement, they could still make those comments when they

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were interviewed by the media after CS's press conference. He considered that it would be a better arrangement if the Administration could give a briefing to Members, prior to the press conference.

14. The Chairman said that she had clearly pointed out to CS that the Chairmen and Deputy Chairmen of Panels could not represent all Members, and it was necessary for the Administration to brief all Members on important announcements or matters.

15. Mr Fred LI added that CS had pointed out that he had wanted to make an announcement as soon as possible after the Executive Council (ExCo) had taken a decision on the Home Ownership Scheme policy on Tuesday, 4 June 2002. CS had therefore not waited for the Panel on Housing to arrange a meeting for the purpose. Mr LI said that both he and the Chairman had advised CS that urgent briefings could be held on Tuesday afternoons after ExCo meetings, and if market sensitive information was involved, the briefing could be held after 4:30 pm. He was surprised that CS seemed to think that it would suffice to only inform the Chairmen and Deputy Chairmen of the Panel on Housing, and issue the press statement to Panel members.

16. Mr CHAN Kam-lam, Deputy Chairman of the Panel on Housing, said that he was not in Hong Kong when CS telephoned him on 5 June 2002 to briefly tell him about the press announcement. Mr CHAN further said that he was also a member of the Housing Authority, but he could not attend the urgent meeting of the Housing Authority held prior to the press conference as he was not in Hong Kong. Mr CHAN added that he did not have the impression that he was informed of the announcement by CS because he was the Deputy Chairman of the Panel on Housing. He agreed that there should be better ways for the Administration to brief Members on important announcements or matters.

17. The Chairman suggested that Members could raise their views and concerns for discussion at the next meeting with CS. The Chairman further said that the Administration should adhere to the practice of briefing LegCo on important announcements and matters, prior to briefing the media. The Chairmen and Deputy Chairmen of the relevant Panels should be consulted in the first instance on whether briefings for Members should be arranged, or whether issuing information briefs would suffice.

18. Ms Emily LAU expressed support for the Chairman's suggestion. Ms LAU further said that it was reported that the Administration would be announcing the appointments of the principal officials, Permanent Secretaries, the new membership of ExCo, etc. within the coming week, after the passage of the resolution on the transfer of statutory functions to be moved by the Secretary for Constitutional Affairs (SCA) at the Council meeting on 19 June

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2002. Ms LAU requested that the Administration should brief LegCo on these appointments, prior to briefing the media.

19. The Chairman said that she would raise Members' views and Ms LAU's request at her meeting with CS on Monday, 17 June 2002.

**(b) CITIC Ka Wah Bank (Limited) Merger Bill**

20. The Chairman said that at the last House Committee meeting, Members agreed to Mr SIN Chung-kai's request to further defer a decision on the Bill to this meeting, as some Members needed more time to seek clarification from the solicitors for CITIC Ka Wah Bank Limited (CKWB) on a few issues.

21. Mr James TO informed Members that he had met with the solicitors for CKWB on the day before and had reached agreement on some procedural matters. He requested that a decision on the Bill be further deferred to the next meeting of the House Committee. Members agreed.

**III. Business arising from previous Council meetings**

**Legal Service Division report on subsidiary legislation gazetted on 7 June 2002**

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*(LC Paper No. LS 117/01-02)*

22. The Legal Adviser reported that a total of 10 items of subsidiary legislation were gazetted on 7 June 2002 and tabled in Council on 12 June 2002.

23. The Legal Adviser explained that the Road Traffic Legislation (Amendment) Ordinance 2002 (3 of 2002) (Commencement) Notice 2002 appointed 1 July 2002 as the date on which the provisions in the Ordinance relating to the designation of driving improvement schools and the deduction of driving offence points would come into effect.

24. The Legal Adviser further explained that the Commencement Notice also sought to appoint 1 November 2002 as the date on which the provisions in the Ordinance which gave the courts power to order persons to attend driving improvement courses and specified the offences in respect of which such orders might be made would come into effect. The Legal Adviser added that all other provisions in the Ordinance had come into operation on the respective dates specified in section 1 of the Ordinance.

25. Referring to the Magistrates Ordinance (Amendment of Fourth Schedule) Order 2002 and the Fixed Penalty (Public Cleanliness Offences)

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Ordinance (Amendment of Schedule 2) Order 2002, the Legal Adviser said that the amendments were occasioned by the creation of a new grade of Leisure Services Manager. The Legal Adviser further said that the former Order amended the Fourth Schedule to the Magistrates Ordinance, while the latter Order amended Schedule 2 to the Fixed Penalty (Public Cleanliness Offences) Ordinance. The Legal Adviser added that the two Orders sought to empower officers of the Leisure Services Manager grade to enforce the relevant offences specified in these schedules to the two Ordinances.

26. The Legal Adviser explained that the Employment of Young Persons (Industry) (Amendment) Regulation 2002 was made to ensure compliance with the Worst Forms of Child Labour Convention, 1999 (International Labour Convention No. 182). The Amendment Regulation would remove the discretion by the Commissioner of Labour to permit the employment of persons under 16 years of age in any dangerous trade. The Legal Adviser further said that according to the Administration, existing trades would not be affected because no permission had been granted to employ any persons under 16.

27. The Legal Adviser added that in concert with this Amendment Regulation, the Administration would also introduce a motion to amend Regulation 9(2) of the Factories and Industrial Undertaking (Woodworking Machinery) Regulations (Cap. 59 sub. Leg.) to remove the discretion by the Commissioner of Labour to permit the employment of persons under 16 years of age on any woodworking machine.

28. Referring to the Gambling (Amendment) Regulation 2002, the Legal Adviser said that according to the Administration, the amendments were introduced to update the conditions of the relevant licences, so that some provisions were enhanced to ensure effective supervision, and some restrictive provisions not conducive to effective supervision were relaxed.

29. The Legal Adviser further said that when the Panel on Home Affairs was briefed on the Gambling (Amendment) Regulation 2002 at the Panel meeting on 12 March 2002, members sought clarification on the proposals relating to lottery licence in respect of extending the time limit and reducing the required number of newspapers for publishing draw results. The Legal Adviser added that the Panel had not raised any objection to the proposed Regulation.

30. The Legal Adviser explained that the Commodities Trading Ordinance (Amendment of Schedule 1) Order 2002 sought to amend Part I of Schedule 1 to the Ordinance by adding item 13 "Fixed income instruments which generated fixed periodic interest payment until the return of the principal". The amendment was to enable the Securities and Futures Commission to



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impose statutory trading and position limits in respect of Exchange Fund Notes (EFN) futures contracts under section 59 of the Ordinance.

31. The Legal Adviser said that according to the Administration, the EFN futures contracts were the only products traded on the Hong Kong Futures Exchange (HKFE) that came within the description of the amending provision. No other products now being traded on HKFE were affected. The Legal Adviser added that the Order would come into operation on 12 July 2002.

32. Regarding the Clubs (Safety of Premises) (Exclusion) (Amendment) Order 2002, the Legal Adviser said that the amendments were for the purpose of rectifying inaccuracies in the address or the name of the relevant clubs.

33. The Legal Adviser said that the Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) Order 2002 and the Declaration of Markets Notice (Amendment) Declaration 2002 sought to designate the Luen Wo Hui Market as a public market.

34. The Legal Adviser further explained that the Statutes of The Chinese University of Hong Kong (Amendment) (No. 2) Statute 2002 was to enable the University to confer a new master degree in professional accountancy.

35. Members did not raise any queries on these items of subsidiary legislation.

36. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 10 July 2002, or the first meeting of LegCo in the next session if extended by resolution.

#### **IV. Further business for the Council meeting on 19 June 2002**

##### **(a) Bills - First Reading and moving of Second Reading**

##### **Supplementary Appropriation (2001-2002) Bill 2002**

37. The Chairman said that the Bill would be introduced into the Council on 19 June 2002 and considered by the House Committee on 21 June 2002.

##### **(b) Members' motions**

##### **(i) Proposed resolution to be moved by Dr Hon YEUNG Sum under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1)**

(Wording of the proposed resolution issued vide LC Paper No.

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CB(3) 690/01-02 dated 7 June 2002.)

38. The Chairman said that the purpose of the proposed resolution was to transfer the statutory functions of SCA to CS.

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- (ii) **Proposed resolution to be moved by Hon CHEUNG Man-kwong under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1)**  
(Wording of the proposed resolution issued vide LC Paper No. CB(3) 689/01-02 dated 7 June 2002.)

39. The Chairman said that the purpose of the proposed resolution was to transfer the statutory functions of the Secretary for the Civil Service (SCS) to CS.

40. The Chairman reminded Members that the speaking time limit of 15 minutes for each Member would apply.

41. Members noted that Mr Albert HO had given notice to move an amendment to the proposed resolutions to be moved by Dr YEUNG Sum and Mr CHEUNG Man-kwong.

42. Mr IP Kwok-him and Ms Emily LAU enquired about the order of debating the amendments to the proposed resolution to be moved by SCA under section 54A of Cap. 1. The Chairman responded that the Secretariat had just issued a paper (LC Paper No. CB(3)718/01-02) which was also tabled at the meeting detailing the amendments to be moved by seven Members to SCA's proposed resolution, and the order in which the Members would move their amendments.

**V. Business for the Council meeting on 26 June 2002**

- (a) **Questions**  
(LC Paper No. CB(3) 703/01-02)

43. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 26 June 2002.

- (b) **Bills - First Reading and moving of Second Reading**

44. The Chairman said that no notice had been received from the Administration.

- (c) **Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**
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- (i) **Revenue Bill 2002**
- (ii) **Revenue (No. 2) Bill 2002**

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45. The Chairman said that the Bills Committee concerned provided a report to the House Committee on 7 June 2002, and Members did not raise objection to the resumption of the Second Reading debates on these two Bills.

**(iii) Noise Control (Amendment) Bill 2001**

46. The Chairman said that the Bills Committee concerned provided a report to the House Committee on 7 June 2002, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

**(iv) Employees Compensation Assistance (Amendment) Bill 2002**

47. The Chairman said that the Bills Committee concerned had completed scrutiny of the Bill and would provide a written report to the House Committee under agenda item VI(c) below.

**(d) Government motions**

**(i) Proposed resolution to be moved by the Secretary for Health and Welfare (SHW) under the Pharmacy and Poisons Ordinance relating to :**

- **the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2002; and**
- **the Poisons List (Amendment) (No. 2) Regulation 2002**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 680/01-02 dated 4 June 2002.)  
(*LC Paper No. LS 111/01-02*)

48. The Legal Adviser explained that the proposed resolution sought the Council's approval for the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2002 and the Poisons List (Amendment) (No. 2) Regulation 2002 made by the Pharmacy and Poisons Board pursuant to section 29 of the Pharmacy and Poisons Ordinance.

49. The Legal Adviser further explained that the two Amendment Regulations sought to add three new medicines, i.e. Caspofungin, Deferiprone and Ganirelix, to Part I of the Poisons List, and the First and Third Schedules to the Pharmacy and Poisons Regulation. Their addition meant that pharmaceutical products containing any of those three new substances must be sold in pharmacies by or under the supervision of a registered pharmacist and in his presence, with the support of prescriptions given by a registered medical

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practitioner, dentist or veterinary surgeon. The Legal Adviser added that the Secretary for Health and Welfare (SHW) had provided supplementary information on those three new medicines and reasons for tighter control in the Annex to the Legal Service Division's report.

50. The Legal Adviser further said that the Board also proposed to amend the exemption level for individual steroid compound contained per dose in the oral contraceptive products in the Second Schedule to the Pharmacy and Poisons Regulation.

51. Members did not raise objection to SHW moving the proposed resolution to seek the Council's approval for the two Amendment Regulations at the Council meeting on 26 June 2002.

(ii) **Proposed resolution to be moved by the Secretary for Education and Manpower (SEM) under the Factories and Industrial Undertakings Ordinance relating to the Factories and Industrial Undertakings (Woodworking Machinery) (Amendment) Regulation 2002**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 694/01-02 dated 6 June 2002.)  
(*LC Paper No. LS 115/01-02*)

52. The Legal Adviser said that the proposed resolution sought the Council's approval for the Factories and Industrial Undertakings (Woodworking Machinery) (Amendment) Regulation 2002 to prohibit the employment of persons under 16 years of age on any woodworking machine. The Legal Adviser further said that as he had explained earlier under agenda item III above, the amendment was required for compliance with the Worst Forms of Child Labour Convention, 1999 (International Labour Convention No. 182), and its accompanying Worst Forms of Child Labour Recommendations, 1999 (Recommendations No. 190).

53. The Chairman said that when the Panel on Manpower was briefed on the Amendment Regulation at the Panel meeting on 16 May 2002, members were in general supportive of the proposal. The Chairman further said that some Panel members had suggested that the Administration should explore ways to better protect children under the age of 18, such as by providing them with free education and extending the protection to cover new trades engaging the service of young people.

54. Members did not raise objection to SEM moving the proposed resolution to seek the Council's approval for the Amendment Regulation.

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- (iii) **Proposed resolution to be moved by the Secretary for Planning and Lands (SPL) under the Buildings Ordinance**  
(Wording of the proposed resolution issued vide LC Paper No. CB(3) 691/01-02 dated 6 June 2002.)  
(*LC Paper No. LS 116/01-02*)

55. The Legal Adviser said that SPL had given notice to move a proposed resolution under section 2(3) of the Buildings Ordinance (Cap. 123) to amend the description of Scheduled Area No. 3 in the Fifth Schedule to the Ordinance. The Legal Adviser explained that the Scheduled Area was the railway protection areas along the Mass Transit Railway (MTR) lines shown on some specified plans dated 29 June 1998 signed by the then Secretary for Planning, Environment and Lands, and deposited in the Land Registry. The purpose of providing for these protection areas was to require the Building Authority's prior approval of plans and consent for the commencement of all ground investigation and underground drainage works to be carried out within those areas.

56. The Legal Adviser further explained that the purpose of the proposed amendments was to update the plans to take into account the changes that had been made to the MTR system since 1998. These changes involved the extension of the Kwun Tong Line to the North Point Station and the completion of the construction works for the Tseung Kwan O Extension Line.

57. Members did not raise objection to SPL moving the proposed resolution under the Buildings Ordinance at the Council meeting on 26 June 2002.

(e) **Members' motions**

- (i) **Motion on "Report on Higher Education in Hong Kong"**  
(Wording of the motion issued vide LC Paper No. CB(3) 697/01-02 dated 10 June 2002.)

58. The Chairman said that the above motion would be moved by Mr YEUNG Yiu-chung and the wording of the motion had been issued to Members.

- (ii) **Motion on "Local community economy"**  
(Wording of the motion issued vide LC Paper No. CB(3) 710/01-02 dated 13 June 2002.)

59. The Chairman said that the above motion would be moved by Mrs Sophie LEUNG and the wording of the motion had been issued to Members.

60. The Chairman reminded Members that the deadline for giving notice of

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amendments, if any, to the motions was Wednesday, 19 June 2002.

## VI. Report of Bills Committee and subcommittee

### (a) **Position report on Bills Committees/subcommittees**

*(Director of Administration's letter dated 13 June 2002 on "Proposed Priority in the Scrutiny of Bills by Members")  
(LC Paper No. CB(2) 2257/01-02)*

61. The Chairman said that there were 13 Bills Committees and four Subcommittees in action as well as 13 Bills Committees on the waiting list.

62. Referring to the Director of Administration (D of Adm)'s letter dated 13 June 2002, the Chairman said that the Administration had requested that priority be given to the scrutiny of the Land (Miscellaneous Provisions) (Amendment) Bill 2002. Members agreed to D of Adm's request.

63. The Chairman further said that at the last House Committee meeting, Members agreed to give priority to the scrutiny of the Immigration (Amendment) Bill 2001, also at the request of D of Adm. The Chairman added that the Bills Committee on the Immigration (Amendment) Bill 2001 and the Bills Committee on the Land (Miscellaneous Provisions) (Amendment) Bill 2002 could commence work immediately, as there would be two vacant slots after the Bills Committee on the Land Registration (Amendment) Bill 2000 and the Bills Committee on Employees Compensation Assistance (Amendment) Bill 2002 had reported under agenda item VI(b) and (c) below.

### (b) **Report of the Bills Committee on Land Registration (Amendment) Bill 2000**

*(LC Paper No. CB(1) 1986/01-02)*

64. Mr Albert CHAN, Chairman of the Bills Committee, reported that the Bill sought to improve the procedures for land registration by -

- (a) giving effect to the Central Registration system under which all registration of property transactions would be carried out in the central office of the Land Registry;
- (b) introducing a new service of colour imaging of plans;
- (c) improving the performance of the registration and search functions of the Land Registry and regulating existing practices of the Land Registry.

65. Mr Albert CHAN said that the Bill also sought to empower the Land Registrar to remove the entries of stopped deeds and the instruments



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temporarily withdrawn by the lodging parties from the land registrar after one year from the date of delivery. Mr CHAN informed Members that there had been a strong call from the deputations which had given views to the Bills Committee that the period for removal of entries of such instruments should be shortened to six months, subject to extension on application. This would not only expedite the registration process, but would also prevent manipulation of stopped deeds by unscrupulous solicitors to procrastinate property transactions. In the light of these concerns, the Administration had agreed to reduce the period from 12 months to six months with power for the Land Registrar to extend the time where appropriate.

66. Mr Albert CHAN further said that some members had queried whether the proposed removal would have the effect of altering the principal Ordinance as to the priority of registered instruments. They were concerned that this might undermine the spirit of the Ordinance to provide certainty through the land register. In view of this concern, the Administration had proposed amendments in consultation with the Law Society of Hong Kong to expressly provide for the priority position between competing interests. However, as there might be cases of exception to the general principles, the Bills Committee had decided at a very late stage that the Hong Kong Bar Association should also be consulted on the proposed amendments. Mr CHAN informed Members that as the Bar Association needed time to consider the amendments, the Bills Committee had requested the Administration to delete the proposed provisions relating to removal of stopped deeds from the Bill, in order not to hold up the Bill since the other provisions or amendments had already been agreed.

67. Referring to the letters from the Law Society and the Land Registrar tabled at the meeting, Mr Albert CHAN informed Members that the Law Society had expressed strong views against proceeding with the Bill without the provisions on the removal of stopped deeds. The Land Registrar had subsequently undertaken to bring the relevant provisions forward in legislation as soon as possible, and had requested the Second Reading debate on the Bill be resumed without these provisions within the current session. Mr CHAN said that although the Land Registrar's proposal was not the most satisfactory arrangement, the Bills Committee agreed that it was undesirable to delay the enactment of the Bill which aimed to bring improvements to the procedures of the land registration.

68. Miss Margaret NG said that she had just learnt that the Bar Association had given its views and had agreed with the Bills Committee that the provisions providing for the priority between registered instruments should be made under the principal Ordinance. As the Administration would meet with the Law Society on Tuesday, 18 June 2002, it would also take into account the Bar Association's views in considering whether an amendment could be made

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to the Ordinance in time to enable resumption of the Second Reading debate on the Bill (with the provisions on removal of stopped deeds) to take place at the Council meeting on 10 July 2002. If this amendment could not be made within the current legislative session, resumption of the Second Reading of the Bill (without the provisions on removal of stopped deeds) could take place on 3 July 2002 as originally proposed, and the Administration would introduce the amendment to the Ordinance as soon as possible in the next session.

69. The Chairman said that as the Bills Committee had completed scrutiny of the Bill and provided a report, an addendum to the report should be provided to inform Members of the latest developments and the outcome of the meeting on 18 June 2002.

70. Members agreed to the Chairman's suggestion and raised no objection to the arrangements as proposed.

**(c) Report of the Bills Committee on Employees Compensation Assistance (Amendment) Bill 2002**  

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*(LC Paper No. CB(2) 2265/01-02)*

71. Ms Audrey EU, Chairman of the Bills Committee, explained that the Bill sought to amend the Employee Compensation Assistance Ordinance with a view to improving the financial stability and viability of Employees Compensation Assistance Fund (the Fund). The Bill also sought to amend the Employees' Compensation Insurance Levies Ordinance (Cap. 411) and the Employees' Compensation Insurance Levy (Rate of Levy) Order (Cap. 411 sub. leg.) to increase the rate of levy on the premium of employees' compensation insurance from 5.3% to 6.3% from 1 July 2002, and to adjust the distribution of such levy income amongst the Employees Compensation Assistance Fund Board, the Occupational Safety and Health Council and the Occupational Deafness Compensation.

72. Ms Audrey EU informed Members that the Administration had proposed that a relief payment be payable under the Employees Compensation Assistance Scheme in lieu of common law damages for injured employees. Ms EU said that under the Bill, the relief payment should not exceed the aggregate sum of damages as awarded by the court and should not cover any costs arising from proceedings in respect of damages. Where the amount did not exceed \$1.5 million, the relief payment should be paid in full in a lump sum. If it exceeded \$1.5 million, a first payment of \$1.5 million should be paid and then followed by monthly payments at the rate of the monthly earnings of the injured employee at the time of the accident or a prescribed monthly amount currently set at \$10,000, whichever was the higher.

73. Ms EU said that some members had expressed concern that the amount

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of monthly payment of the relief payment might not be sufficient to meet the needs of those employees who had been seriously injured and required long term care and attention by other persons. These members had proposed that the amount of monthly payment for these employees should be increased. The Administration had subsequently consulted the Labour Advisory Board (LAB) on the provision of further assistance to those seriously injured employees who required long term care and attention. According to the Administration, there was no majority view among the LAB members on the issue. The Administration had stated that it did not support any proposal which had not been agreed to by the LAB. Ms EU further said that the Bills Committee took a vote on a proposal put forward by Mr LEE Cheuk-yan that the prescribed monthly payments to these employees should be increased from \$10,000 to 30,000, and the majority view was that she should move the amendments, on behalf of the Bills Committee.

74. Ms EU said that the Administration had subsequently informed the Bills Committee that the LAB had re-visited the issue and reached a consensus to provide an enhanced monthly payment to seriously injured employees who required long term care and attention. The proposal was that an enhanced amount of monthly payment at \$10,000 should be payable to an injured employee who had, as a result of the injury, suffered from total paralysis (quadriplegia) or paraplegia and was unable to perform the essential actions of life without the care and attention of another person. This enhanced payment would be made to the injured employee until the balance of the relief payment had been fully paid or the death of the injured employee, whichever was the earlier.

75. Ms EU further said that the majority of members of the Bills Committee expressed support for the Administration's proposal. As the Administration would move amendments to provide for the enhanced monthly payment, the Bills Committee would not pursue the amendments as originally proposed by Mr LEE Cheuk-yan. Ms EU added that as Mr LEE Cheuk-yan was currently not in Hong Kong, she did not know whether he would move the original amendments in his own name.

76. Ms Audrey EU said that the Bill also provided that an eligible person who was unable to recover from an employer payment of damages for which the employer was liable might apply to the Employees Compensation Assistance Fund Board for a relief payment. In a non-fatal employment-related injury, the relief payment would be payable to the injured employee. If the injured employee died before the amount of the relief payment had been exhausted, his/her surviving spouse or cohabitee, and any surviving child who was under the age of 21 at the time of the death of the injured employee would be eligible for the relief payment. Ms EU further said that some members considered that the dependant brothers and sisters should be eligible for relief

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payment if the deceased employee did not leave any surviving spouse/cohabitee, child and parents. As the Administration did not support the proposal, the Bills Committee took a vote on the matter and the majority view was that she should move the amendments, on behalf of the Bills Committee. Ms EU added that although the Bills Committee had not discussed when the relief payment to dependent brothers and sisters should cease, she considered that these dependant brothers and sisters should cease to be entitled to a relief payment when they attained the age of 21, and her amendments would include such a provision.

77. Ms Audrey EU informed Members that Mr LEE Cheuk-yan had proposed that the level of surcharge be increased from three times to 10 times the levy payable on the premium paid on the employees' compensation insurance policy taken after the offence had been detected. Ms EU said that the majority of members did not support the proposal, and Mr LEE had previously indicated that he might move an amendment to increase the level of surcharge.

78. Ms Audrey EU further informed Members that as illustrated by the experience of the insolvency of the HIH Group, the Administration considered it appropriate that protection against insurer insolvency should be excluded from the scope of the Employees Compensation Assistance Scheme and dealt with separately. The Administration therefore proposed that a separate employees compensation insurer insolvency scheme be set up to deal with any future insolvency of insurers underwriting employees' compensation business. Ms EU said that as the insurance industry objected to the proposed scheme, the Administration had advised that it would continue to discuss the matter with the insurance industry. The Administration had also confirmed that the provisions in the Bill to repeal those sections of the Ordinance relating to insurer insolvency would not come into effect unless and until the proposed insolvency scheme was in place.

79. Ms Audrey EU pointed out that under the Bill, an employer was required to make an application to the Employees Compensation Assistance Fund Board for payment within 180 days after the date on which he was entitled to make such application. Some members had expressed reservations about the limitation of 180 days, as they considered that employers should not be deprived of the right to seek remedy from the Fund.

80. Ms Audrey EU further pointed out that concerns were raised on whether the Bill would have retrospective effect to enable the principal contractors in the case of HIH insolvency to apply for assistance. For avoidance of doubt, the Administration had agreed to move an amendment to the Bill to make it clear that a principal contractor who had taken out a policy of insurance in accordance with the Employees Compensation Assistance Ordinance should be

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eligible to make application for assistance from the Employees Compensation Assistance Fund Board, irrespective of whether a notice of insurer insolvency was issued by the Board before, on or after the commencement of the Bill.

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81. Ms Audrey EU said that the Bills Committee recommended that subject to the Committee Stage amendments (CSAs) to be moved by the Administration, the Second Reading debate on the Bill be resumed at the Council meeting on 26 June 2002. Ms EU added that she would also move amendments on behalf of the Bills Committee, as explained to Members earlier.

82. Ms EU further said that the Bills Committee also recommended support for the Administration to seek the leave of the President to dispense with the notice requirement in respect of the two consequential amendments discussed in paragraphs 78 to 79 of the report. Members agreed.

83. Mr James TIEN said that Members belonging to the Liberal Party supported the provision of an enhanced monthly payment to seriously injured employees who required long term care and attention, as there were only six such cases in the past 10 years, and the additional payouts arising from the proposal could be absorbed within the available resources of the Board without the need of further increasing the levy rate.

84. Mr James TIEN further said that Members belonging to the Liberal Party would not agree to the amendments to be moved by Ms Audrey EU on behalf of the Bills Committee to the effect that dependant brothers and sisters under the age of 21 should be eligible to relief payment, if the deceased employee did not leave any surviving spouse/cohabitee, child and parent. Mr TIEN pointed out that when the Bills Committee took a vote on the matter, Mr Kenneth TING had voted against the proposal on behalf of the Liberal Party. He further pointed out that in a survey of 85 fatal personal accidents conducted by the Administration in 2001, it was found that in none of the cases, the deceased persons were survived only by brothers or sisters and did not leave any spouse/cohabitee, child or parent.

85. Members raised no objection to the resumption of Second Reading debate on the Bill on 26 June 2002. The Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 17 June 2002.

**(d) Final report of the Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues**  
(LC Paper No. CB(2) 2277/01-02)

86. Mr IP Kwok-him, Chairman of the Subcommittee, reported that the Subcommittee had provided an interim report and a further report on 24 May 2002 and 7 June 2002 respectively. Mr IP said that pursuant to the decision of the House Committee on 7 June 2002, the Subcommittee had held a further meeting on 11 June 2002 to discuss the proposed resolutions on transfer of

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statutory functions to be moved by the Secretary for Constitutional Affairs, Dr YEUNG Sum and Mr CHEUNG Man-kwong under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Council meeting on 19 June 2002.

87. Mr IP Kwok-him informed Members that in response to members' concern about the proposed transfer of statutory functions from the Secretary for the Treasury to the Secretary for Financial Services and the Treasury, the Administration had explained that section 54A of Cap.1 did not cover CS and Financial Secretary (FS), and they would continue to exercise the statutory functions vested in them. The Administration had undertaken to review the statutory functions currently vested in CS and FS to see if any functions should be transferred to the relevant bureau secretaries or delegated to them, when the principal officials had settled in their respective positions. The review would also include an examination of the definition of FS in section 3 of Cap.1.

88. Mr IP Kwok-him said that the Subcommittee had noted that Dr YEUNG Sum would move a resolution to transfer the statutory functions of SCA to CS, and Mr CHEUNG Man-kwong would move a resolution to transfer the statutory functions of SCS to CS. He said that the two Members had each provided a paper to explain their respective proposals. Mr IP further said that the Subcommittee had also noted that some other Members had proposed amendments to the proposed resolution to be moved by SCA.

89. Mr IP Kwok-him said that as the Subcommittee had completed its work, a final report was now provided for the House Committee. He thanked members of the Subcommittee for their hard work in the examination of the proposed accountability system for principal officials, and the proposed resolutions under section 54A of Cap. 1.

90. Referring to paragraph 25 of the report, Mr NG Leung-sing said that he disagreed with Ms LAU's view that as Members had little time to study the proposed resolution to be moved by SCA and the large amount of related documents provided by the Administration, those Members who would vote to support the Administration's resolution at the Council meeting on 19 June 2002 should be held accountable for any mistakes. He stressed that the Subcommittee had already held 15 meetings or 54 hours of discussion to consider the accountability system and the proposed resolution. He was worried that if the House Committee accepted Ms LAU's view, it might create a precedent that Members who voted to support a proposal of the Administration would be held accountable for any mistakes of the proposal.

91. Mr IP Kwok-him clarified that paragraph 25 only recorded Ms Emily LAU's view, and it did not represent the view of the Subcommittee.

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92. The Chairman said that Members could freely express their views at committee meetings, and it was the duty of committee clerks to accurately and faithfully record the views expressed by Members at meetings. The Chairman further said that the House Committee was only invited to note the Subcommittee's report, and it would be for individual Members to decide whether they agreed or disagreed with the views detailed in the report.

93. Ms Emily LAU said that paragraph 25 of the report only recorded her personal view on the matter, and it did not represent the view of the Subcommittee. Referring to her request made at the Finance Committee (FC) meeting preceding this meeting, Ms LAU said that the Administration had undertaken to report to the Panel on Constitutional Affairs (CA Panel) in six months the progress of the review to be conducted after the introduction of the accountability system for principal officials. She said that the Administration's report should be provided to Members before the end of 2002, and it should cover all aspects of the accountability system, including the financial arrangements, the operation of the system, and the working relationship between the principal officials and the civil servants. She requested the Secretariat to follow up the matter, and also provide a background paper for the CA Panel to facilitate Members' discussion on the Administration's report. Members agreed.

94. Ms Emily LAU asked whether the Subcommittee would follow up the concern expressed by some Members about the payment of monthly pensions to retired senior civil servants appointed as principal officials under the accountability system. Ms LAU said that many civil servants were unhappy with such an arrangement. She added that at the FC meeting, some Members had requested the Administration to provide a paper on whether it was in order to pre-empt the decision of CE by announcing the intention of not suspending the monthly pension of former civil servants who were appointed as principal officials. She suggested that the written advice should be discussed before 19 June 2002 when SCA would move the resolution to transfer certain statutory functions to the principal officials under the accountability system.

95. Mr IP Kwok-him responded that the Subcommittee had discussed the concern at several meetings. He did not consider that it was necessary for the Subcommittee to further discuss the matter.

96. Miss Margaret NG said that she was one of the Members who had raised the query at the FC meeting. Miss NG added that it would not be meaningful for the Subcommittee to discuss the Administration's paper. She would consider how the matter should be followed up at an appropriate forum, after receiving the Administration's paper.

97. The Chairman said that as the Subcommittee had discussed the issue of



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pension payments to former civil servants appointed as principal officials, Members should refer to the relevant parts of the various reports of the Subcommittee for details of the discussion, and papers on the subject issued by the Administration and the Legal Adviser. The Chairman added that it would be for Members to decide whether or not to support the Administration's resolution, in the light of the above information.

**VII. Papers of the Committee on Rules of Procedure**

**(a) Proposed minor amendments to the Rules of Procedure and House Rules relating to the tenure of office of chairmen and deputy chairmen of the Finance Committee and the House Committee**  
*(LC Paper No. CROP 23/01-02)*

98. Mr Jasper TSANG Yok-sing, Chairman of the Committee on Rules of Procedure (CRoP), said that the paper sought Members' agreement to some minor amendments to the Rules of Procedure and the House Rules proposed by CRoP, for the purpose of setting out clearly the tenure of office of the respective chairmen and deputy chairmen of FC and the House Committee.

99. Mr TSANG pointed out that a recent review of the House Rules and the FC Procedure had revealed some inconsistencies between them and the Rules of Procedure. In this connection, Members' advice was sought to the amendments to the Rules of Procedure in Appendices I to II, and the House Rules in Appendix III, as proposed in paragraphs 4 and 5 of the paper.

100. Mr TSANG further said that subject to Members' endorsement of the above proposals, he would move a motion at a Council meeting within the current session to amend the Rules of Procedure as proposed. Mr TSANG added that upon the passage of the amendments to the Rules of Procedure by the Council, consequential amendments would be made to the House Rules as provided in Appendix III, and recommendations would be made to FC to amend the FC Procedure, Public Works Subcommittee Procedure and Establishment Subcommittee Procedure accordingly.

101. Members endorsed the recommendations of CRoP.

**(b) Review of new arrangements for preparation of minutes of proceedings of committees**  
*(LC Paper No. CROP 25/01-02)*

102. Mr Jasper TSANG Yok-sing, Chairman of CRoP, said that the paper reported on the outcome of a review by CRoP of the new arrangements for the preparation of minutes of proceedings of committees, which were introduced

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in November 2001. Mr TSANG informed Members that CROp noted that the new arrangements had generally worked satisfactorily, and recommended that they should continue, with the following adjustments -

- (a) the target time for the production of draft minutes in the condensed form be extended to three clear days;
- (b) the target time for the Administration to offer comments on these draft minutes be extended to three clear days; and
- (c) the alternative format suggested by a Bills Committee for indexing the proceedings of a meeting the minutes of which were prepared in the condensed form (Annex II to Appendix II) be adopted.

103. Mr TSANG said that subject to Members' agreement to the above recommendations, the adjusted arrangements would be implemented with effect from the next LegCo session.

104. Ms Emily LAU expressed support for adopting the alternative format for indexing the proceedings of minutes of meetings which were prepared in the condensed form. Ms LAU asked whether there were difficulties in the production of draft minutes when a large number of meetings were held within a short period of time. The Secretary General responded that the Secretariat had conducted an internal review and found that the committee clerks could generally meet the target times for the production of draft minutes.

105. Members endorsed the recommendations of CROp.

### **VIII. Any other business**

106. Miss Margaret NG pointed out that the Copyright (Suspension of Amendments) Ordinance would cease to have effect on 31 July 2002. Miss NG asked whether the Administration had indicated when it would revert to Members on the matter.

107. The Secretary General advised that the Secretariat had recently raised the matter with the Administration, but it had not given any indication on when it would revert to Members.

108. The Chairman said that she would raise the matter with CS.

109. There being no further business, the meeting ended at 6:10 pm.

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Council Business Division 2  
Legislative Council Secretariat  
20 June 2002