

立法會
Legislative Council

LC Paper No. CB(1)248/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/BC/13/02

**Bills Committee on
Public Officers Pay Adjustments (2004/2005) Bill**

**Minutes of fourth meeting held on
Friday, 24 October 2003 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon NG Leung-sing, JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon Bernard CHAN, JP
Hon Andrew WONG Wang-fat, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon YEUNG Yiu-chung, BBS
Hon Emily LAU Wai-hing, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Kwok-keung, JP
Dr Hon LO Wing-lok, JP

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

Mr Ian WINGFIELD, GBS, JP
Law Officer
Department of Justice

Mr David MORRIS
Deputy Law Draftsman
Department of Justice

Mr Eddie MAK
Principal Assistant Secretary for the Civil Service
(Pay & Leave)

Ms Betty CHEUNG
Senior Government Counsel
Department of Justice

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

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Ms Rosalind MA
Senior Assistant Secretary (1)8

I. Confirmation of minutes of meeting
(LC Paper No. CB(1)122/03-04 — Minutes of third meeting held on
10 October 2003)

The minutes of the meeting held on 10 October 2003 were confirmed.

II. Meeting with the Administration

- (LC Paper No. CB(1)125/03-04(01) — “Follow-up to the third meeting on 10 October 2003” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)125/03-04(02) — Letter dated 21 October 2003 from the Administration on “Follow-up to the meeting on 10 October 2003”
- LC Paper No. CB(1)2552/02-03(03) — Paper prepared by the Assistant Legal Adviser in response to the Administration’s paper on “Judicial Reviews on the Public Officers Pay Adjustment Ordinance (Cap. 574)”
- Appendix to LC Paper No. CB(1)2116/02-03(01) — Judgement handed down by the Court of First Instance on 10 June 2003 on two applications for judicial review against the Public Officers Pay Adjustment Ordinance (Cap. 574)
- LC Paper No. CB(3)648/02-03 — The Bill
- LC Paper No. CB(1)2116/02-03(03) — A comparison table on the provisions of the Bill and the provisions of the Public Officers Pay Adjustment Ordinance (Cap. 574) provided by the Administration
- LC Paper No. CB(1)2552/02-03(04) — Letter dated 19 September 2003 from the Assistant Legal Adviser to the Administration
- LC Paper No. CB(1)2552/02-03(05) — Reply dated 2 October 2003 from the Administration to the Assistant Legal Adviser
- LC Paper No. CB(1)125/03-04(03) — Letter dated 21 October 2003 from the Assistant Legal

Adviser to the Administration)

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

Follow-up actions to be taken by the Administration

Admin 3. At the request of the Bills Committee, the Administration agreed to take the following actions:

- (a) To facilitate the Bills Committee's understanding of the application of the Bill to judicial officers (clause 3(1)(b)), the Administration was requested to provide the full list of judicial officers specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92).
- (b) Clause 6 and Schedule 3 to the Bill provided for the adjustment of the Hospital Authority (HA) pay scales applicable to civil servants serving in HA. In this connection, the Administration was requested to provide the following information:
 - (i) To clarify whether there were two different sets of HA pay scales, one applicable to civil servants serving in HA and the other to staff employed by HA;
 - (ii) In connection with item (i) above, the Administration was requested to advise whether the civil servants serving in HA were aware of the arrangement for them to be paid in accordance with the HA pay scales applicable to civil servants serving in HA instead of the civil service pay scales;
 - (iii) To clarify the source of authority for the Government to adjust the HA pay scales applicable to civil servants serving in HA; and
 - (iv) To provide information on the pay adjustment mechanism for staff employed by HA, in particular, whether their pay was adjusted in accordance with civil service pay adjustments.
- (c) To address members' concerns about the adjustment of pay of certain public officers who were not civil servants or ICAC officers (clause 11), the Administration was requested to provide the following information:
 - (i) To advise how the term "public officers" was defined;
 - (ii) To provide the number of public officers covered by clause 11(1), (2), (3) and (4) respectively;
 - (iii) To provide the number of public officers who were not covered by clause 11 or other clauses of the Bill, hence falling outside the scope of application of the Bill and would not be subject to pay reductions as other public officers. The Administration was requested to provide a breakdown of the number by the public bodies concerned; and

- (iv) To provide the updated progress of the Administration's review of remuneration of senior executives of statutory and other bodies.

- (d) On the adjustment of the salary of the Director of Audit (clause 12), the Administration was requested to provide information on how the pay for the post was set initially, in particular, whether there was any linkage or reference to the Directorate Pay Scale of the civil service.

(Post-meeting note: At the request of Mr Michael MAK after the meeting and with the concurrence of the Chairman, the Administration was also requested to provide the following information:

- When the HA pay scales were introduced;
- Whether the civil servants serving in HA had been consulted on the arrangement for them to be paid in accordance with the HA pay scales applicable to civil servants serving in HA instead of the civil service pay scales; and
- The source of authority for the Government to create the HA pay scales applicable to civil servants serving in HA.)

Date of next meeting

4. Members agreed that the next meeting of the Bills Committee would be held on Friday, 7 November 2003 at 8:30 am.

III. Any other business

5. There being no other business, the meeting ended at 10:45 am.

Council Business Division 1
Legislative Council Secretariat
5 November 2003

**Proceedings of the fourth meeting of the
Bills Committee on Public Officers Pay Adjustments (2004/2005) Bill
on Friday, 24 October 2003 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
Agenda Item I - Confirmation of minutes of meeting			
000000-000037	Chairman	Confirmation of minutes of meeting on 10 October 2003	
Agenda Item II - Meeting with the Administration <i>Part A: Matters arising from the third meeting on 10 October 2003</i>			
000038-001134	Chairman Administration	Briefing by the Administration on the following issues: (a) The Administration's response to members' concern about the legal effect and legislative effect of the approval by the Finance Committee (Annex A to LC Paper No. CB(1)125/03-04(02)) (b) Up-to-date progress of the complaint lodged by the Hong Kong Confederation of Trade Unions to the International Labour Organization (Item 2 of LC Paper No. CB(1)125/03-04(02))	

Time	Speaker	Subject(s)	Action required
		(c) Proposed Committee Stage Amendments to Clause 14 and Clause 15 — Outcome of Staff Consultation (Annex B to LC Paper No. CB(1)125/03-04(02))	
001135-001206	Chairman Assistant Legal Adviser 5	Drafting of the proposed amendments to clauses 14 and 15	
001207-001420	Chairman	The Administration's response to the submission dated 6 October 2003 from the Hong Kong Bar Association (Annex C to LC Paper No. CB(1)125/03-04(02))	
001421-001625	Chairman Assistant Legal Adviser 5	The real issue decided in the case of <i>Lam Yuk Ming and Others v. Attorney General</i> was whether the Government's use of legislative means to change the Colonial Regulations could override the employment contracts of civil servants, but not whether the Government had power to reduce pay by legislation	
<i>Part B: Clause-by-clause examination of the Bill</i>			
001626-001745	Administration	Briefing by the Administration on "A comparison table on the provisions of the Bill and the provisions of the Public Officers Pay Adjustment Ordinance (Cap. 574) provided by the Administration"	

Time	Speaker	Subject(s)	Action required
		(LC Paper No. CB(1)2116/02-03(03))	
001746-002401	Chairman Administration	Briefing by the Administration on clauses 1 to 3	
002402-002614	Mr LEUNG Fu-wah Administration	Application of the Bill to judicial officers (Clause 3(1)(b))	Administration to provide the required information under paragraph 3(a) of the minutes
002615-003341	Chairman Administration	Briefing by the Administration on clauses 4 to 6	
003342-003900	Ms Emily LAU Administration	(a) Number of civil servants serving in HA (b) Whether the pay of staff employed by HA was adjusted in accordance with civil service pay adjustments	Administration to provide the required information under paragraph 3(b)(iv) of the minutes
003901-003943	Mr Michael MAK	Declared interest as employee of HA	
003944-004540	Mr Michael MAK Administration Mr CHEUNG Man-kwong	Source of authority for the Government to adjust the HA pay scales applicable to civil servants serving in HA	Administration to provide the required information under paragraph 3(b)(iii) of the minutes

Time	Speaker	Subject(s)	Action required
004541-004732	Mr LEE Cheuk-yan	Whether there were two different sets of HA pay scales, one applicable to civil servants serving in HA and the other to staff employed by HA	Administration to provide the required information under paragraph 3(b)(i) of the minutes
004733-005310	Mr CHEUNG Man-kwong Administration	Pay adjustments for civil servants serving in HA and staff employed by HA	
005311-005459	Mr Michael MAK Chairman	Source of authority for the Government to adjust the HA pay scales applicable to civil servants serving in HA	
005500-010034	Mr LEE Cheuk-yan Administration	Whether the pay of staff employed by HA was adjusted in accordance with civil service pay adjustments	
010035-010132	Miss Margaret NG Chairman	The Administration's response to the submission dated 6 October 2003 from the Hong Kong Bar Association (Annex C to LC Paper No. CB(1)125/03-04(02))	
010133-010239	Administration	Briefing by the Administration on clause 7	
010240-010542	Mr Michael MAK Administration	Whether civil servants serving in HA were aware of the arrangement for them to be paid in accordance with the HA pay scales applicable to civil servants serving in HA instead of the civil service pay scales (clause 6)	Administration to provide the required information under paragraph 3(b)(ii) of the minutes

Time	Speaker	Subject(s)	Action required
010543-010755	Chairman Administration	Briefing by the Administration on clause 8	
010756-011415	Mr Michael MAK Administration	Categories of civil servants on reference civil service pay scales (clause 7)	
011416-011614	Mr Michael MAK Chairman Administration Mr CHEUNG Man- kwong Mr LEUNG Fu-wah	Procedures for the clause-by-clause examination of the Bill	
011615-012736	Chairman Administration	Briefing by the Administration on clauses 9 to 11	
012737-013851	Mr CHEUNG Man- kwong Administration Chairman	(a) Whether clause 11, together with other clauses of the Bill, would cover all public officers to be subject to the pay reductions (b) Pay adjustments for civil servants serving in HA with pay equivalent to Directorate Pay Scale point 3 and above	
013852-015558	Ms Emily LAU Administration Chairman	(a) How the term “public officers” was defined (b) Number of public officers covered by clause 11 (c) Number of public officers who were not covered by clause 11 or other clauses of the Bill	Administration to provide the required information under paragraph 3(c) of the minutes

Time	Speaker	Subject(s)	Action required
		(d) Updated progress of the Administration's review of remuneration of senior executives of statutory and other bodies	
015559-015905	Chairman Administration Mr Michael MAK	How the pay of the Director of Audit was set initially, in particular, whether there was any linkage or reference to the Directorate Pay Scale of the civil service (Clause 12)	Administration to provide the required information under paragraph 3(d) of the minutes
015906-020539	Ms Emily LAU Administration Mr CHEUNG Man- kwong Assistant Legal Adviser 5	Adjustment of salary of Director of Audit (Clause 12(1),12(2) and 12(3))	
020540-020646	Chairman	Date of next meeting	