

立法會
Legislative Council

LC Paper No. CB(2) 264/02-03

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 4th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 1 November 2002**

Members present :

Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, 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 Cyd HO Sau-lan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
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, JP
Hon CHAN Kam-lam, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon Jasper TSANG Yok-sing, GBS, 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 LAW Chi-kwong, 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, JP
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 IP Kwok-him, JP
Hon LAU Ping-cheung

Members absent :

Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Howard YOUNG, JP
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

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

Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Vivian KAM	Principal Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Anita HO	Assistant Legal Adviser 2
Miss Connie FUNG	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Betty MA	Senior Assistant Secretary (2)1

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I. Confirmation of the minutes of the 3rd meeting held on 25 October 2002
(LC Paper No. CB(2) 189/02-03)

The minutes were confirmed.

II. Matters arising

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

(Director of Administration's letter dated 28 October 2002 on "Arrangements for Attendance at Full Council Meetings of the Legislative Council During the Temporary Absence of Principal Officials" issued vide LC Paper No. CB(2) 211/02-03 on 29 October 2002)

(LC Paper No. CB(2) 2075/01-02(01) referred to in Director of Administration's letter)

Co-operation between the Administration and the Council

2. The Chairman said that she had advised CS that Ir Dr Raymond HO had indicated that in future, the responsible Directors of Bureaux would be invited, where necessary, to attend discussion of the relevant Public Works Subcommittee (PWSC) items.

3. The Chairman informed Members that CS had clarified that the attendance of Directors of Bureaux at Panel or other committee meetings depended on the agenda items involved. The guiding principle was that the most appropriate public officers would attend, and very often they were the Permanent Secretaries. CS had assured her that the Directors of Bureaux would consider invitations from Dr HO. CS had also stressed that whoever

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attended meetings represented the Special Administrative Region Government and were fully responsible.

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4. The Chairman further said that CS had informed her and the Deputy Chairman that the Administration had discussed and decided on the arrangements in relation to leave-taking and absence from Hong Kong of Secretaries of Departments and Directors of Bureaux. CS had elaborated that when the Secretary for Justice was away, one of the Law Officers would attend Council meetings on her behalf, while a Director of Bureau would act up in the case of absence of CS or the Financial Secretary (FS). As for Directors of Bureaux, they would be relieved by their fellow Directors.

5. The Chairman added that at her request, the Director of Administration had provided a letter on 29 October 2002 to set out the arrangements in writing.

6. Ms Emily LAU said that a circular was issued to PWSC members on 31 October 2002 requesting them to indicate their preference as to whether the responsible Directors of Bureaux or the Permanent Secretaries concerned should attend PWSC meetings to answer questions on policy issues relating to the public works project proposals. Ms LAU asked whether the circular contradicted the House Committee's decision that the Chairman of the House Committee should convey to CS the view of PWSC that the responsible Directors of Bureaux should attend PWSC meetings.

7. Ir Dr Raymond HO, Chairman of PWSC, explained that the circular was issued in accordance with the House Committee's decision made at the last meeting that it would be for PWSC to decide whether the responsible Directors of Bureaux should be invited to attend PWSC meetings. The circular aimed to seek the views of PWSC members on whether both the Secretary for the Environment, Transport and Works and the Secretary for Housing, Planning and Lands should attend PWSC meetings as a standard arrangement, or whether they should attend PWSC meetings on a need basis.

8. Mr Andrew WONG said that at the PWSC meeting on 16 October 2002, he had suggested that FS should be invited to attend a meeting of the House Committee to explain whether there had been a change in Government's policy on public works projects, and why the responsible Directors of Bureaux did not attend the PWSC meeting on that day.

9. The Chairman pointed out that Members had earlier agreed that instead of attending a special meeting of the House Committee, FS should attend the special meeting of the Panel on Financial Affairs on 25 October 2002 to explain the budgeting of Government expenditure for the years from 2003-2004 to 2006-2007, as well as the policy on public works projects.

10. Mr Andrew WONG said that he was of view that if a PWSC item involved major policy issues, e.g. "dropping" a project from the Public Works

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Programme, the responsible Directors of Bureaux, and even FS, should attend the relevant meeting of PWSC to answer Members' questions on the item. Mr WONG added that for other items which did not involve major policy issues, he would accept the Permanent Secretaries attending the relevant PWSC meetings to answer Members' questions on these items.

11. The Chairman said that Members had agreed at the last meeting that it would be for PWSC to decide, as in the case of other committees, whether the responsible Directors of Bureaux should be invited to attend its meetings.

12. Mr IP Kwok-him said that as it was for PWSC to decide on the attendance of public officers at its meetings, the circular referred to by Ms Emily LAU did not contradict the decision of the House Committee. He added that the response of PWSC members to the circular would facilitate the Chairman of PWSC to follow up the matter with the Administration.

Progress of work of Bills Committees

13. The Chairman said that she had advised CS that Members were aware of the need to get things moving. She had also informed CS that Members were of the view that whether or not to hold the work of a Bills Committee in abeyance should be considered on a case-by-case basis, and such a decision should rest with the Bills Committee concerned.

14. The Chairman informed Members that CS had explained that the proposed time limit of one month was not important. All that he had tried to suggest was that the gathering of information should not take too long and should not hold up the progress of other bills. CS had asked his colleagues to respond to requests from Bills Committees for clarification or additional information within one month as far as possible. The Chairman added that CS had referred to the number of bills carried forward from the last session, and expressed his wish that the bills introduced in this session could all be dealt with by the end of the session.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 25 October 2002

(*LC Paper No. LS 11/02-03*)

15. The Legal Adviser said that five items of subsidiary legislation were gazetted on 25 October 2002 and tabled in Council on 30 October 2002. The Legal Adviser explained that the Karaoke Establishments (Licensing) Regulation provided for the detailed requirements on fire safety and building

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safety and the factors that the licensing authority might take into account when deciding whether certain premises were suitable for the operation of a karaoke establishment.

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16. The Legal Adviser further explained that the Karaoke Establishments (Fees) Regulation prescribed the fees to be charged for the grant or issue, transfer and renewal of a permit or licence in respect of karaoke establishments.

17. The Legal Adviser advised that the Bills Committee on the Karaoke Establishments Bill had discussed the draft Karaoke Establishments (Licensing) Regulation, but not the Fees Regulation. The Legal Adviser further said that according to the Legislative Council (LegCo) Brief on the Regulations, the fees were set to recover the full costs incurred by various departments in processing the applications.

18. The Legal Adviser pointed out that both Regulations would come into operation on the day appointed for the commencement of the Karaoke Establishments Ordinance, and that the Administration intended to bring the Ordinance into operation by the end of 2002.

19. The Legal Adviser added that the Legal Service Division had sought clarification from the Administration on certain technical matters relating to the Licensing Regulation, and a response had just been received. The Legal Service Division would study the response and provide a further report on the Licensing Regulation if necessary.

20. Mr Tommy CHEUNG suggested that a subcommittee be formed to study the two Regulations in detail.

21. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join : Mr James TO, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Henry WU and Mr Tommy CHEUNG.

22. The Legal Adviser explained that the Aviation Security Ordinance (Replacement of Schedule 1) Order 2002 updated the list of countries or territories in Schedule 1 to the Ordinance. The Legal Adviser further explained that under the Ordinance, the commanders of aircraft might, for the purpose of protecting the safety of the aircraft, deliver a person who had committed a serious offence on the aircraft, to the relevant authorities of the countries or territories to which the Tokyo Convention applied. The Legal Adviser added that no difficulties relating to the legal and drafting aspects of the Order had been identified. Members did not raise any queries on this item of subsidiary legislation.

23. As regards the Patents (General) (Amendment) (No. 2) Rules 2002, the Legal Adviser explained that the Rules amended section 39 of the Patents (General) Rules to remove the one-month time limit for filing a notice of amendment of specification, and to provide that the notice should be accompanied by a sealed copy of the court order allowing the amendment.

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The Legal Adviser pointed out that according to the Administration, the one-month time limit was unnecessary and problematic.

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24. Miss Margaret NG said that the one-month time limit for filing a notice of amendment of specification was imposed for a reason. She enquired why the Administration had now considered that the one-month time limit should be removed. She also requested the Legal Service Division to seek further information from the Administration on the specific difficulties encountered in the application of the one-month time limit and the impact of removing such a time limit.

25. The Legal Adviser said that according to the LegCo Brief on the Rules, the Administration considered the time limit of one month unnecessary, as the provisions of section 81(5) of the Patents Ordinance should provide sufficient incentive for the proprietor of a patent to file the notice promptly. The Administration had also explained in the LegCo Brief that the one-month time limit was problematic because it was non-extendible. If a patent proprietor failed to file notice of the court order within the time limit, the Registrar of Patents would have no legal authority to record the amendment to the specification and make it public. Moreover, the proprietor of the patent had no recourse to remedy the situation even though the court order remained valid. The Administration considered that this defeated part of the purpose of the public Register as a tool for disseminating up-to-date and reliable patent information.

26. The Chairman pointed out that the Panel on Commerce and Industry had not been consulted on Patents (General) (Amendment) (No. 2) Rules 2002. The Chairman further suggested that as Members might need more time to study the Rules, a decision on the Rules should be deferred to the next House Committee meeting. Members agreed.

27. As regards the Shipping and Port Control (Amendment) Regulation 2002 (L.N. 117 of 2002) (Commencement) Notice 2002, the Legal Adviser said that the Notice appointed 1 November 2002 as the day on which the Shipping and Port Control (Amendment) Regulation 2002 (L.N. 117 of 2002) would come into operation. Members did not raise any queries on this item of subsidiary legislation.

28. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 27 November 2002, or 18 December 2002 if extended by resolution.

IV. Business for the Council meeting on 13 November 2002

(a) Questions
(LC Paper No. CB(3) 92/02-03)

29. The Chairman said that 20 questions (six oral and 14 written) had been

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scheduled for the Council meeting on 13 November 2002.

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

30. The Chairman said that no notice had been received yet.

(c) **Government motion**

Proposed resolution to be moved by the Secretary for Health, Welfare and Food under the Pharmacy and Poisons Ordinance relating to :

- **the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2002; and**
- **the Poisons List (Amendment) (No. 4) Regulation 2002**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 85/02-03 dated 24 October 2002.)
(*LC Paper No. LS 10/02-03*)

31. The Legal Adviser said that the motion sought the Council's approval for the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2002 and the Poisons List (Amendment) (No. 4) Regulation 2002. The Legal Adviser explained that the two Amendment Regulations sought to add six new substances to the First and Third Schedules to the Pharmacy and Poisons Regulation and Part I of the Poisons List Regulation. The addition meant that pharmaceutical products containing any of these substances must be sold in a pharmacy under the supervision of a registered pharmacist and in his presence, with the support of prescriptions.

32. Members did not raise objection to the Secretary for Health, Welfare and Food moving the proposed resolution at the Council meeting on 13 November 2002.

(d) **Members' motions**

- (i) **Motion on "Reducing electricity and gas tariffs"**
(Wording of the motion issued vide LC Paper No. CB(3) 98/02-03 dated 31 October 2002.)
- (ii) **Motion on "Ageing of the population"**
(Wording of the motion issued vide LC Paper No. CB(3)100/02-03 dated 31 October 2002.)

33. The Chairman said that the above motions would be moved by Mr Fred LI and Mr TAM Yiu-chung, and the wording of the motions had been issued to

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Members.

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34. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 6 November 2002.

V. Advance information on business for the Council meeting on 20 November 2002

Bills - First Reading and moving of Second Reading

Education Reorganization (Miscellaneous Amendments) Bill 2002

35. The Chairman said that the Bill would be introduced into the Council on 20 November 2002 and considered by the House Committee on 22 November 2002.

VI. Report of Bills Committee and subcommittee

(a) Position report on Bills Committees/subcommittees
(LC Paper No. CB(2) 219/02-03)

36. The Chairman said that there were 15 Bills Committees and six Subcommittees were in action, as well as four Bills Committees on the waiting list.

(b) Report of the Bills Committee on Human Organ Transplant (Amendment) Bill 2001
(LC Paper No. CB(2) 187/02-03)

37. Dr LO Wing-lok, Chairman of the Bills Committee, said that the Bills Committee had held four meetings. Dr LO further said that at the fourth meeting held on 22 March 2002, the Administration was asked to provide a written response to two issues raised by members, as set out in paragraph 4 of the report, before the fifth meeting of the Bills Committee scheduled for 25 April 2002. However, the meeting had to be postponed twice and subsequently cancelled at the request of the Administration.

38. Dr LO added that the Administration was approached again recently regarding the date for the next meeting. As the Administration was not in a position to report back to the Bills Committee in the immediate future, the Bills Committee agreed to hold in abeyance the consideration of the Bill for the time being, pending the Administration's response to the outstanding issues.

39. The Chairman said that the slot vacated would be taken up by the Bills Committee on the Electoral Provisions (Miscellaneous Amendments) Bill

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(c) **Report of the Subcommittee on Places of Public Entertainment Ordinance (Amendment of Schedule 1) Regulation 2002 and Places of Public Entertainment (Exemption) Order**

(Paragraphs 51-56 of the minutes of the 3rd House Committee meeting on 25 October 2002)

(LC Paper No. CB(2) 144/02-03 issued vide LC Paper No. CB(2) 210/02-03 on 29 October 2002)

40. The Chairman said that Mr James TO, Chairman of the Subcommittee, had made a verbal report at the last meeting of the House Committee on 25 October 2002. The written report was now presented for Members' information.

41. Mr James TO said that he had nothing to add to the report.

(d) **Report of the Subcommittee on Solicitors (Group Practice) Rules**

(Paragraphs 57-59 of the minutes of the 3rd House Committee meeting on 25 October 2002)

(LC Paper No. CB(2) 218/02-03)

42. The Chairman said that Miss Margaret NG, Chairman of the Subcommittee, had made a verbal report at the last meeting of the House Committee on 25 October 2002. The written report was now presented for Members' information.

43. Miss Margaret NG said that she had nothing to add to the report.

VII. Any other business

LegCo Fun Day 2002-2003

44. The Chairman informed Members that the Fun Day would be held on Friday, 13 December 2002, at 6:00 pm in the Dining Hall. The Chairman suggested that Mr David CHU be invited to be the master of ceremony. Members agreed.

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