

立法會
Legislative Council

LC Paper No. CB(2) 509/02-03

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 8th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 29 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
Hon Cyd HO Sau-lan
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 David LI Kwok-po, GBS, 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 Yuen-han, JP
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, 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-yee, 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 LAW Chi-kwong, 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
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
Hon MA Fung-kwok, JP

Members absent :

Dr Hon David CHU Yu-lin, JP
Hon LEE Cheuk-yan
Hon CHAN Kwok-keung
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Howard YOUNG, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LEUNG Fu-wah, MH, JP

Clerk in attendance :

Mrs Justina LAM Clerk to the House Committee

Staff in attendance :

Mr LAW Kam-sang, JP Acting Secretary General
Mr Jimmy MA, JP Legal Adviser

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 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 7th meeting held on 22 November 2002

(LC Paper No. CB(2) 457/02-03)

The minutes were confirmed.

II. Matters arising

Report by the Deputy Chairman on his meeting with the Acting Chief Secretary for Administration (Ag CS)

2. The Deputy Chairman said that he had informed Ag CS that a Bills Committee had been formed to study the Education Reorganization (Miscellaneous Amendments) Bill 2002, and the number of Bills Committees on the waiting list was four.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 22 November 2002

(LC Paper No. LS 23/02-03)

3. The Legal Adviser said that four items of subsidiary legislation were gazetted on 22 November 2002 and tabled in Council on 27 November 2002.

4. The Legal Adviser said that the Immigration (Amendment) Ordinance 2002 (31 of 2002) (Commencement) Notice 2002 appointed 17 January 2003 as the day on which the Amendment Ordinance would come into operation. He further said that the Immigration (Amendment) Ordinance 2002 was passed

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on 6 November 2002 to exclude Mainland officials holding Chinese Travel Permits with a specific endorsement from being treated as ordinarily resident in Hong Kong during their stay as such holders for the purpose of fulfilling the seven years' rule for acquiring permanent resident status under the Immigration Ordinance.

5. As regards the Mandatory Provident Fund Schemes (Amendment) (No. 2) Ordinance 2002 (29 of 2002) (Commencement) Notice 2002, the Legal Adviser explained that the Mandatory Provident Fund Schemes (Amendment) (No. 2) Ordinance 2002 was passed on 10 July 2002 to provide for a number of measures aiming at streamlining the operation of the Mandatory Provident Fund system and enhancing protection of scheme members. The Legal Adviser further explained that the Amendment Regulation had been studied by a subcommittee. Some of the provisions relating to protection of scheme members had already come into operation on 19 July 2002. The Legal Adviser added that the Notice appointed 1 February 2003 as the day on which the remaining provisions of the Amendment Ordinance would come into operation.

6. Regarding the Massage Establishments (Amendment) Ordinance 2001 (28 of 2001) (Commencement) Notice 2002, the Legal Adviser said that the Notice appointed 27 December 2002 as the day on which the Amendment Ordinance (other than section 4) would come into operation. He explained that section 4 of the Amendment Ordinance enabled the licensing authority to renew a licence for a period of 24 months, instead of 12 months, if the licensee had not been in breach of any condition of the licence. According to the Administration, it was now preparing amendments to the subsidiary legislation for the implementation of section 4, which would come into operation when such amendments were ready.

7. The Legal Adviser said that the Places of Public Entertainment Ordinance (Amendment of Schedule 1) Regulation 2002 (L.N. 120 of 2002) (Commencement) Notice 2002 appointed 15 January 2003 as the day on which the Regulation would come into operation. He further said that a subcommittee had examined and supported the Regulation which imposed a licensing requirement on rave parties held at premises not licensed for dancing activities.

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

9. The Chairman said that the deadline for amending these four items of subsidiary legislation was 18 December 2002, or 15 January 2003 if extended by resolution.

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IV. Business for the Council meeting on 11 December 2002

(a) **Questions**

(LC Paper No. CB(3) 172/02-03)

10. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 11 December 2002.

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

Stamp Duty (Amendment) Bill 2002

11. The Chairman said that the above Bill would be introduced into the Council on 11 December 2002 and considered by the House Committee on 13 December 2002.

(c) **Government motion**

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

(d) **Members' motions**

(i) **Motion on "The 70% ceiling for residential mortgage loans"**

13. The Chairman said that the above motion would be moved by Mr James TIEN and the draft wording was tabled at the meeting.

(ii) **Motion on "Enacting laws to implement Article 23 of the Basic Law"**

(Wording of the motion issued vide LC Paper No. CB(3) 178/02-03 dated 27 November 2002.)

Hon Emily LAU has proposed that the House Committee should recommend to the President that Members speaking should each be allowed to speak for not more than 15 minutes.

14. The Chairman said that the above motion would be moved by Mr James TO and the wording had been issued to Members.

15. Ms Emily LAU said that given the importance of the subject matter, Members speaking at the debate should each be allowed to speak for not more than 15 minutes so that they could fully express their views. Ms LAU further said that she understood that her request was exceptional. However, for the

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motion on "Public Order Ordinance" moved by the Secretary for Security for debate in Council on 20 December 2000 and the motion on "Accountability system for principal officials" moved by the Secretary for Constitutional Affairs for debate in Council on 29 May 2002, the House Committee did decide that Members speaking could each speak for not more than 15 minutes. Ms LAU further pointed out that House Committee also agreed to apply the 15 minutes' speaking time limit for the debate on the motion on "Report of Select Committee" held at the Council meeting on 3 February 1999. Ms LAU hoped that the House Committee would agree to her proposal.

16. Mr IP Kwok-him said that Members belonging to the Democratic Alliance of Betterment for Hong Kong did not consider it appropriate for Members speaking at the debate on Mr James TO's motion should each be allowed to speak for not more than 15 minutes, as there were many other fora for Members and the public to express their views on the subject matter. Mr IP pointed out that the Administration would introduce a bill to implement Article 23 of the Basic Law after the public consultation period, and Members would still have plenty of opportunities to give views on the subject matter. Mr IP further said that if Members speaking on Mr James TO's motion would each be allowed to speak for not more than 15 minutes, the debate would be prolonged unnecessarily. He added that if the House Committee agreed to the 15 minutes' speaking time limit on this occasion, Members might also have to consider whether the 15 minutes' speaking time limit should apply on future occasions.

17. Mr CHEUNG Man-kwong said that Members belonging to the Democratic Party supported Ms LAU's proposal as it would be appropriate to allow Members more time to express their views on this very important subject matter. Mr CHEUNG considered that the 15 minutes' speaking time limit should apply to a motion without legislative effect if there was wide public concern about the subject matter of the motion.

18. Mr CHEUNG further said that to implement Article 23, the Administration had proposed that local legislation should encompass seven types of offences, including prohibition of certain acts against the Central People's Government. While Members belonging to political parties or groupings could each speak on different offences proposed in the consultation document, Members not belonging to any political party or grouping might not have sufficient time to fully express their views, if the seven minutes' speaking time limit was to apply. Mr CHEUNG reckoned that even if Members speaking at the debate were each allowed to speak for not more than 15 minutes, not every Member would speak and use up the 15 minutes.

19. Mr Andrew WONG said that in accordance with Rule 36 of the Rules of

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Procedure, unless otherwise recommended by the House Committee, a Member should not make a speech lasting more than 15 minutes. Mr WONG further said that under Rule 37 of the Rules of Procedure, the House Committee could recommend to the President that Members should not speak for more than a specified number of minutes, and such time limits were set out in rule 17(b) of the House Rules. Mr WONG added that it would be for the President to consider whether to accept the recommendation of the House Committee. Mr WONG considered that the House Committee should convey Members' views on the speaking time for the President's consideration. He added that even a speaking time limit of 15 minutes might not be sufficient for a Member to fully express his views on all the issues relating to Article 23.

20. Mr James TIEN said that Members belonging to the Liberal Party did not object to imposing the seven minutes' speaking time limit on Members speaking on Mr James TO's motion. Mr TIEN added that he understood that Members who did not belong to any political party or grouping might want to be able to speak longer than seven minutes.

21. Ms Emily LAU explained that she had put forward the proposal not out of consideration that Members not belonging to any political party or grouping might want a longer speaking time. Ms LAU pointed out that under the present rules, Members were allowed to speak for not more than 15 minutes during the resumption of the Second Reading debate on, and at the Committee Stage of, a bill. Given that the subject matter of Mr James TO's motion involved very important and complex issues, and that the relevant bill would shortly be introduced by the Administration, she considered that Members should be allowed a speaking time limit of 15 minutes. Ms LAU further said that if it was the Secretary for Security who was to move a motion on Article 23 for debate in Council, Members would have already agreed to the 15 minutes' speaking time limit.

22. Miss Margaret NG expressed support for Ms LAU's proposal. She said that the subject matter of Mr James TO's motion was very important as it involved issues of human rights and freedoms of the people of Hong Kong. Miss NG pointed out that when the speaking time limit for the motion on "Public Order Ordinance" sponsored by the Secretary for Security was considered by the House Committee, Members readily agreed to the speaking time limit of 15 minutes. She considered that a motion moved by a Member was no less important than that moved by a public officer, and the 15 minutes' speaking time limit should apply in this case. She added that it would be for individual Members to decide whether they would speak for 15 minutes or less.

23. Mr Albert CHAN said that the Legislative Council (LegCo) sought to influence the Administration through debating and giving views on its policies

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and proposals. Members should not impose too many restrictions on themselves; otherwise, LegCo would be adversely affected in discharging its constitutional function. Mr CHAN further said that sufficient time should be allowed for Members who did not belong to any political party or grouping to speak on Mr James TO's motion.

24. Mr Martin LEE said that he had always held the view that restriction should not be imposed on Members' speaking time for debates in Council, and that it should be for Members who spoke at a motion debate to decide how long they wished to speak. Mr LEE further said that he supported Ms LAU's proposal.

25. Ms Audrey EU said that many deputations had given their views on the Administration's proposals to implement Article 23 at the joint meetings of the Panel on Security and Panel on Administration of Justice and Legal Services. However, most of the deputations had merely stated their respective stance using "slogan" type statements, and not putting forward detailed arguments. Ms EU hoped that holding a motion debate on the subject matter would enable a more in-depth discussion on the issues involved.

26. Ms EU considered if the speaking time limit was set at seven minutes, Members would not have sufficient time to fully express their views on the subject matter. Ms EU further said that proposals to implement Article 23 were of concern not only to the people of Hong Kong, but also to the international community. Ms EU asked Members to consider the negative impact on LegCo's image, if the meeting was to continue to argue over whether to allow Members a few more minutes to express their views at a debate on such an important subject matter.

27. Ms Emily LAU said that as not every Member had been able to attend the joint Panel meetings held to discuss the Administration's proposals to implement Article 23, moving a motion for debate in Council would provide a formal occasion for Members to exchange views on the matter. She reiterated that Members should be allowed sufficient time to speak on the motion.

28. Mr James TIEN suggested a break of five minutes to enable Members to discuss among themselves before taking a decision on Ms LAU's proposal. Members agreed. The Chairman ordered a break of five minutes.

(The meeting resumed at 3:00 pm.)

29. Ms Miriam LAU said that Members belonging to the Liberal Party would not insist that Members speaking at the debate on Mr James TO's motion should each be allowed to speak for not more than seven minutes. It

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was understandable that some Members would wish to speak for up to 15 minutes.

30. The Chairman put the question "that Members speaking at the debate on Mr James TO's motion should each be allowed to speak for not more than 15 minutes" to vote. The result was 27 Members voted for the proposal and no Member voted against the proposal.

31. Ms Miriam LAU enquired about the arrangement if the business to be transacted at the Council meeting on 11 December 2002 could not be finished on that day, as the debate on Mr James TO's motion would likely be very long.

32. Ms Emily LAU said that although the debate on Mr James TO's motion might be very long, the President should allow it to continue and not suspend the meeting on 11 December 2002 and resume it on 12 December 2002.

33. The Chairman advised that the past practice had been that, if the President was of the opinion that it was unlikely that the business on the Agenda for a Council meeting could not be finished by about midnight on the day of the meeting, she would suspend the meeting at about 10:00 pm and order that the meeting resume the following day for the continuation of business.

34. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 4 December 2002.

V. Report of Bills Committee and subcommittee

Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 465/02-03)

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

VI. Any other business

36. There being no further business, the meeting ended at 3:05 pm.

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Council Business Division 2
Legislative Council Secretariat
4 December 2002