

立法會
Legislative Council

LC Paper No. CB(2) 609/02-03

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 9th meeting
held in the Legislative Council Chamber
at 4:00 pm on Friday, 6 December 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

Ir Dr Hon Raymond HO Chung-tai, JP

Hon LEE Cheuk-yan

Hon Martin LEE Chu-ming, SC, 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 WONG Yung-kan

Hon Jasper TSANG Yok-sing, GBS, JP

Hon Howard YOUNG, JP

Dr Hon YEUNG Sum

Hon YEUNG Yiu-chung, BBS

Hon LAU Kong-wah

Hon LAU Wong-fat, GBS, JP

Hon Miriam LAU Kin-yee, JP

Hon Ambrose LAU Hon-chuen, GBS, JP

Hon Andrew CHENG Kar-foo
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Henry WU King-cheong, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
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 Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

Members absent :

Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, JP
Dr Hon Philip WONG Yu-hong
Hon LAU Chin-shek, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung
Hon LAU Ping-cheung

Clerk in attendance :

Mrs Justina LAM	Clerk to the House Committee
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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

Miss Kathleen LAU	Chief Public Information Officer
Miss Becky YU	Chief Assistant Secretary (1)1
Ms Connie SZETO	Chief Assistant Secretary (1)4
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
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
Mr TSANG Siu-cheung	Senior Assistant Secretary (1)7
Miss Betty MA	Senior Assistant Secretary (2)1

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I. Confirmation of the minutes of the 8th meeting held on 29 November 2002

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

The minutes were confirmed.

II. Matters arising

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

Attendance by CS at House Committee meetings

2. The Chairman said that in response to her request, CS undertook to consider appropriate topic(s) for his attendance at a House Committee meeting, which would probably be in January 2003. The Chairman further said that CS's Office would liaise with the Legislative Council (LegCo) Secretariat for the necessary arrangements.

III. Business arising from previous Council meetings

(a) Legal Service Division reports on bills referred to the House Committee in accordance with Rule 54(4)

(i) Housing (Amendment) Bill 2002
(LC Paper No. LS 18/02-03)

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3. The Legal Adviser explained that the Bill sought to amend the Housing Ordinance to make a public officer who was a member of the Housing Authority (HA) also eligible for appointment by the Chief Executive (CE) as the Chairman of HA, and to transfer to CE the power of the Secretary for Housing, Planning and Lands (SHPL) to appoint a panel for hearing tenancy appeals.

4. The Legal Adviser further explained that according to the LegCo Brief on the Bill, the amendments were consequent upon the recommendations of the Report of the Committee on the Review of the Institutional Framework for Public Housing (RIFPH) issued in June 2002. He said that Members should note that the RIFPH Report's recommendation on this point was that the relevant principal official (i.e. SHPL) should be appointed as the Chairman of HA *ex officio*.

5. The Legal Adviser added that the drafting and legal aspects of the Bill presented no problem.

6. Mr SIN Chung-kai said that Members belonging to the Democratic Party considered that the Chairman of HA should be elected by and among members of HA, instead of being appointed by CE. He suggested that a Bills Committee should be formed.

7. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr SIN Chung-kai and Mr Andrew WONG.

(ii) **Education (Amendment) Bill 2002**
(*LC Paper No. LS 16/02-03*)

8. The Legal Adviser said that the Bill sought to amend the Education Ordinance and its subsidiary legislation to facilitate the implementation of school-based management, and to introduce other amendments.

9. The Legal Adviser further said that the Legal Service Division was still scrutinizing the legal and drafting aspects of the Bill. The Legal Adviser added that since the Bill introduced a new policy that had attracted a lot of concern and debate, Members might wish to set up a Bills Committee to study the Bill in detail.

10. Mr Tommy CHEUNG said that the amendments proposed in the Bill were complex and controversial. He expressed support that a Bills Committee should be formed.

11. The Chairman proposed that a Bills Committee be formed. Members

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agreed. The following Members agreed to join : Ms Cyd HO, Ir Dr Raymond HO, Mr LEE Cheuk-yan, Mr CHEUNG Man-kwong, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr SZETO Wah (as advised by Mr CHEUNG Man-kwong), Mr Tommy CHEUNG and Ms Audrey EU.

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(b) **Legal Service Division report on subsidiary legislation gazetted on 29 November 2002**

(LC Paper No. LS 25/02-03)

12. The Legal Adviser explained that the report covered 17 items of subsidiary legislation which were gazetted on 29 November 2002 and tabled in Council on 4 December 2002.

13. The Legal Adviser said that the Import and Export (General) (Amendment) Regulation 2002 was made for the implementation of an international certification scheme (the Scheme) for rough diamonds in Hong Kong, while the Import and Export (Fees) (Amendment) Regulation 2002 prescribed the fees payable for the registration and issue of licences for the import and export of rough diamonds. The Scheme had been developed by the Kimberley Process, an international negotiating forum that sought to stop trade in “conflict diamonds” from fuelling armed conflicts, activities of rebel movements and illicit proliferation of armament.

14. The Legal Adviser further explained that Hong Kong could not join the Scheme as a participant as it was neither a state nor one of the members of a regional economic integration organisation comprising sovereign states. The Trade and Industry Department and the Customs and Excise Department would be designated as importing and exporting authorities of the People’s Republic of China for the purposes of implementing the Scheme in Hong Kong.

15. The Legal Adviser further said that the Panel on Commerce and Industry had been briefed on the proposed arrangements on 11 November 2002 and had expressed support. However, there was concern that the control regime and the fees should not become a burden to the industry. The Administration was also urged to ensure the confidentiality of the information obtained and make reference to the practices of overseas jurisdictions in implementing the Scheme.

16. The Legal Adviser added that the Administration expected to bring these two Regulations into operation on 1 January 2003 or as soon as possible thereafter.

17. Referring to the Marine Parks and Marine Reserves (Amendment) Regulation 2002, Mr WONG Yung-kan said that he would like to have more information about the fishing activities permitted under the Amendment Regulation, in particular whether consultation had been conducted by the Administration in this respect.

18. The Chairman suggested that a decision on the Marine Parks and

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Marine Reserves (Amendment) Regulation 2002 be deferred to the next House Committee meeting to allow time for the Legal Service Division to obtain the information from the Administration. Members agreed.

19. The Legal Adviser explained that the Practising Certificate (Special Conditions) Rules set out the conditions which the Law Society of Hong Kong might impose when issuing or amending an already issued practising certificate to a solicitor, and the matters to be considered by the Law Society when imposing the conditions.

20. The Legal Adviser further explained that the Rules had been approved and signed by the Chief Justice, and also circulated to the members of the Panel on Administration of Justice and Legal Services on 28 November 2002. He added that no difficulties in relation to the legal and drafting aspects of the Rules had been identified.

21. Miss Margaret NG said that the Panel on Administration of Justice and Legal Services would discuss the Rules at its meeting on 13 December 2002. The Chairman suggested that a decision on the Rules be deferred to the next House Committee meeting. Members agreed.

22. Referring to the seven sets of Rules made under the Securities and Futures Ordinance, the Legal Adviser said that they were the first batch of 37 sets of Rules required to be made before the Ordinance could come into operation. The remaining items of subsidiary legislation would probably be tabled consecutively in two further batches in the coming weeks.

23. The Legal Adviser informed Members that the Subcommittee on draft subsidiary legislation to be made under the Securities and Futures Ordinance had already studied these seven sets of Rules, and would present its report to the House Committee under agenda item VI(e) below.

24. The Legal Adviser further said that both the contents of and the underlying policies reflected in these Rules had the support of the Subcommittee. No difficulties in relation to the legal or drafting aspects of the subsidiary legislation had been identified.

25. Mr Henry WU suggested that a decision on the seven sets of Rules be deferred as the securities and futures industry would need more time to study the Rules.

26. The Chairman proposed that a decision on these seven items of subsidiary legislation be deferred to the next House Committee meeting. Members agreed.

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27. Members did not raise any queries on the other items of subsidiary legislation.

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28. The Chairman said that the deadline for amending these 17 items of subsidiary legislation was 18 December 2002.

IV. Further business for the Council meeting on 11 December 2002

Questions

(LC Paper No. CB(3) 198/02-03)

29. The Chairman drew Members' attention to the new oral question to be raised by Mr WONG Sing-chi.

V. Business for the Council meeting on 18 December 2002

(a) Questions

(LC Paper No. CB(3) 199/02-03)

30. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 18 December 2002.

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

Land Titles Bill

31. The Chairman said that the above Bill would be introduced into the Council on 18 December 2002 and considered by the House Committee on 3 January 2003.

(c) Government motions

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

- **the Pharmacy and Poisons (Amendment) (No.5) Regulation 2002; and**
- **the Poisons List (Amendment) (No. 5) Regulation 2002**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 179/02-03 dated 28 November 2002.)

(LC Paper No. LS 24/02-03)

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32. The Legal Adviser explained that the proposed resolution sought the Council's approval for the Pharmacy and Poisons (Amendment) (No. 5) Regulation 2002 and the Poisons List (Amendment) (No. 5) Regulation 2002.

33. The Legal Adviser further explained that the two Amendment Regulations sought to add a new substance to Part I of the Poisons List, and three new substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations. Their addition meant that pharmaceutical products containing any of these substances must be sold in pharmacies under the supervision of registered pharmacists with the support of prescriptions. The Legal Adviser added that SHWF had provided supplementary information on these substances in the Annex to his draft speech on the proposed resolution.

34. Members did not raise any objection to SHWF's moving the proposed resolution to seek the Council's approval for the two Amendment Regulations at the Council meeting on 18 December 2002.

(ii) **Proposed resolution to be moved by the Secretary for Security (S for S) relating to the draft Criminal Jurisdiction Ordinance (Amendment of Section 2(2)) Order 2002**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 193/02-03 dated 29 November 2002.)

(*LC Paper No. LS 26/02-03*)

35. The Legal Adviser said that S for S had given notice to move a proposed resolution to seek the LegCo's approval for the draft Criminal Jurisdiction Ordinance (Amendment of Section 2(2)) Order 2002.

36. The Legal Adviser explained that under section 2(4) and (5) of the Ordinance, CE in Council could by order in the Gazette amend section 2(2) and (3), but no such order should be made unless a draft of it had been laid before and approved by resolution of LegCo.

37. The Legal Adviser further explained that the draft Order proposed to add three computer related offences to the list of Group A offences in the Ordinance, as a result of recommendations made by the Interdepartmental Working Group on Computer Related Crime (Working Group).

38. The Legal Adviser pointed out that according to the Administration, the Panel on Security was consulted on the report of the Working Group and its recommendations at the Panel meeting on 7 December 2000. The Legal Adviser further pointed out that members of the Panel raised a number of issues and concerns relating to the report. However, the draft Order was not mentioned at the meeting, and there was no comment from members made

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specifically on the addition of the three offences contained in the draft Order.

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39. The Legal Adviser added that whether the addition of offences should raise policy considerations would be a matter for Members.

40. Mr James TO said that when the Panel on Security discussed the report of the Working Group, there was no specific discussion on the draft Order. He suggested that a subcommittee should be formed to study the draft Order in detail.

41. Miss Margaret NG expressed support for Mr James TO's proposal. Miss NG said that she recalled that when the Panel on Security was briefed on the Working Group's report, the Panel was informed by the Administration that there were problems in dealing with cross-border computer related crime. Miss NG would like to know how the problems had been dealt with, and what the basis of the Administration's decision to extend the application of the Criminal Jurisdiction Ordinance to cover cross-border computer related crime was.

42. The Chairman proposed that a subcommittee be formed to study the draft resolution, and that S for S be asked to withdraw her notice. Members agreed. The following Members agreed to join : Ms Cyd HO, Miss Margaret NG, Mrs Selina CHOW, Mr James TO, Mr CHAN Kwok-keung and Mr SIN Chung-kai.

43. The Chairman instructed that Miss Margaret NG's concern should be conveyed to the Administration before the subcommittee met.

(d) Members' motions

(i) Motion on "Culture and Heritage Commission Consultation Paper 2002"

(Wording of the motion issued vide LC Paper No. CB(3) 204/02-03 dated 4 December 2002.)

(ii) Motion on "Implementing the International Labour Convention"

(Wording of the motion issued vide LC Paper No. CB(3) 205/02-03 dated 4 December 2002.)

44. The Chairman said that the above motions would be moved by Mr MA Fung-kwok and Mr LEE Cheuk-yan respectively and the wording of the motions had been issued to Members.

45. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 11 December 2002.

VI. Report of Bills Committee and subcommittee

(a) Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 549/02-03)

(Director of Administration's letter dated 5 December 2002 on "Proposed Priority in the Scrutiny of Bills by Members")

46. The Chairman said that there were 13 Bills Committees and six Subcommittees in action as well as six Bills Committees, including the Bills Committee on Housing (Amendment) Bill 2002 and the Bills Committee on Education (Amendment) Bill 2002 formed under agenda item III(a) above, on the waiting list.

47. Referring to the Director of Administration (D of Adm)'s letter dated 5 December 2002, the Chairman said that the Administration had requested that priority be given to the scrutiny of the Education Reorganization (Miscellaneous Amendments) Bill 2002. Members agreed to D of Adm's request.

48. The Chairman further said that the Bills Committee on the Education Reorganization (Miscellaneous Amendments) Bill 2002 and the Bills Committee on the Dutiable Commodities (Amendment) Bill 2002 could commence work immediately, as there would be two vacant slots after the Bills Committee on the Electoral Provisions (Miscellaneous Amendments) Bill 2002 and the Bills Committee on the Landlord and Tenant (Consolidation) (Amendment) Bill 2001 had reported under item VI(b) and (c) below.

(b) Report of the Bills Committee on Electoral Provisions (Miscellaneous Amendments) Bill 2002

(LC Paper No. CB(2) 547/02-03)

49. Mr IP Kwok-him, Chairman of the Bills Committee, said that the main object of the Bill was to add one, three and six elected members to the Islands, Sai Kung and Yuen Long District Councils (DC) respectively. Mr IP further said that although individual members of the Bills Committee had expressed different views on the number of elected members of DCs to be increased, the Bills Committee supported the Bill.

50. Mr IP Kwok-him said that some members of the Bills Committee had expressed particular concern about the situation in Shatin. The members were worried that with the number of elected members of Shatin DC remaining the same, certain constituencies with smaller population in the district would be combined in order to provide extra seats to cope with the population increase in Ma On Shan new town. They considered that such changes would disrupt the community identity and local ties established in the areas since the 1999 DC

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elections.

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51. Mr IP Kwok-him informed Members that the Administration would move Committee Stage amendments (CSAs) to the Bill to provide that the provision relating to the number of elected seats for the second term DCs should come into full effect on 1 January 2004. Mr IP further informed Members that Mr Albert CHAN Wai-yip had indicated that he would give notice to move CSAs to increase the number of elected seats of the Islands and Yuen Long DCs by two and nine respectively. Mr IP added that the Bills Committee would not move any CSAs.

52. Mr IP Kwok-him said that the Bills Committee recommended that the Second Reading debate on the Bill be resumed at the Council meeting on 18 December 2002. The deadline for giving notice of CSAs was Monday, 9 December 2002.

53. Members raised no objection to the resumption of Second Reading debate on the Bill at the Council on 18 December 2002.

(c) **Report of the Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2001**
(LC Paper No. CB(1) 440/02-03)

54. Ms Audrey EU, Chairman of the Bills Committee, reported that the Bills Committee had completed scrutiny work, and the deliberations of the Bills Committee were detailed in the report.

55. Regarding tenancy renewal procedures, Ms Audrey EU explained that the Bill proposed to shorten the statutory period by three months (from the original six to seven months to the proposed three to four months) for the service of notice by a landlord terminating a tenancy (Form CR 101) or by a tenant requesting a new tenancy (Form CR 103), and by one month (from the original two months to the proposed one month) for the service of the respective counter-notices (Form CB 102/CR 104). The Bills Committee had not raised objection to the proposal.

56. Ms EU further explained that the Bill proposed to impose heavier penalties in relation to harassment and unlawful eviction of tenants. An offender would be subject to a fine of \$500,000 and imprisonment for 12 months on first conviction and a fine of \$1 million and imprisonment for three years on a subsequent conviction.

57. Ms Audrey EU informed Members that the Bill also proposed to amend the method of calculating compensation to make reference to the rateable value of the actual portion of the flat which the tenant or sub-tenant occupied. As a result, the compensation received by each occupant would be higher than that under the current arrangement. A comparison of compensation under the

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existing and proposed methods of calculation was in Appendix III to the report.

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58. Ms EU further informed Members that to minimize the abuse of the relief period by habitually defaulting tenants, the Bill proposed to shorten the relief stage from 28 to seven days. She pointed out that the Bills Committee held the view that the statutory procedures for repossession could be further streamlined to protect the interest of landlords, particularly in the event of repeated defaults in payment of rent by tenants. In the light of members' concern, the Administration agreed to introduce an implied forfeiture clause in the Bill to assist landlords who failed to put in the tenancy agreement a forfeiture clause in respect of persistent delay in payment. The same would apply to the use of premises for an immoral or illegal purpose. The Administration would move CSAs to this effect.

59. Ms Audrey EU said that to reflect its intent of forbidding a tenant to claim for relief from forfeiture more than once per tenancy unless with good cause as determined by the court, the Administration would move CSAs to amend the relevant sections under the High Court Ordinance and the District Court Ordinance.

60. Ms EU further said that members held the view that the present enforcement procedure was cumbersome. Consideration should also be given to imposing a fixed time limit within which tenants should remove their properties after repossession of premises and storing unclaimed properties in a public warehouse. To this end, the Judiciary Administrator agreed to revise the Notice of Application under Landlord and Tenant (Consolidation) Ordinance (Form 22) to include applications for disposal of properties left in premises by tenants.

61. Ms Audrey EU informed Members that to protect landlords against rogue tenants, the Bills Committee considered that a mandatory requirement for tenants to provide their personal information and past rental records to landlords should be added to the Bill, provided that such a requirement did not contravene the Personal Data (Privacy) Ordinance. Provision of false information would be subject to criminal liability. Ms EU further informed Members that the Administration's view was that the proposed mandatory disclosure requirement, the failure of which would lead to criminal liability, appeared not to comply with the provisions of the International Covenant on Civil and Political Rights.

62. Ms Audrey EU added that while acknowledging the Administration's explanation, members remained of the view that the subject of disclosure of personal information warranted further consideration. Members requested and the Administration agreed to include an undertaking in the speech to be delivered by SHPL at the resumption of Second Reading debate on the Bill that the provision of false information by tenants would be considered in the context

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of the comprehensive review of the security of tenure provisions under the principal Ordinance to be conducted shortly. The involvement of sub-tenants in the legal proceedings at which the principal tenant was in default of rent payment would also be included in the review.

63. Ms Audrey EU said that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 18 December 2002.

64. Members did not raise objection to the resumption of Second Reading debate on the Bill at the Council meeting on 18 December 2002. The Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 9 December 2002.

**(d) Report of the Subcommittee on Patents (General) (Amendment)
(No.2) Rules 2002**

(LC Paper No. CB(1) 438/02-03)

65. Miss Margaret NG, Chairman of the Subcommittee, 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 of patent, and to provide that the notice should be accompanied by a sealed copy of the court order allowing the amendment.

66. Miss Margaret NG said that the Subcommittee had mainly focused its deliberation on the proposed removal of the one-month time limit, and the propriety of introducing the Amendment Rules given that there was a pending appeal case. Miss NG further said that the Subcommittee had expressed dissatisfaction that the Administration had failed to mention the appeal case in the LegCo Brief on the Amendment Rules. However, the Administration took the view that the recent appeal case was not relevant to the making of the Amendment Rules.

67. Miss NG informed Members that the Subcommittee had met with the representatives of patent proprietors who supported the proposed removal of the one-month time limit. However, concern had been expressed by members that such a removal might defeat the policy intent of requiring patent proprietors to file notices of amendment of specification of patent promptly. The proposed removal might also undermine the balance of the entire patent regime where timely notice was a crucial factor.

68. Miss Margaret NG said that the Subcommittee had fully deliberated the Amendment Rules, and there were divergent views on whether they should be supported. While some members considered it inappropriate to remove the one-month time limit before conclusion of the appeal case, other members supported the removal as soon as practicable to enable patent proprietors who

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failed to file notices of amendment of patent specification within the time limit to claim damages for any relevant infringement committed.

69. Miss Margaret NG further said that the Court of Final Appeal (CFA) had just handed down its judgment on 5 December 2002 regarding the pending appeal case. CFA had ruled that section 39(1) of the Rules was ultra vires and had no legal effect. It also ruled that the rule-making power relating to applications and orders under section 46 of the Patents Ordinance was not given to the Registrar but to the Rules Committee of the High Court. Miss NG considered that given the CFA ruling, there was no pressing need in removing the one-month time limit. Instead, the more pressing question was whether and what amendment should be made to the Amendment Rules. In this connection, the Subcommittee would hold another meeting on 9 December 2002 to consider the implications of the judgment on the Amendment Rules, and provide a further report to the House Committee.

70. Ms Miriam LAU said that concern had been raised by some Subcommittee members that any delay in removing the one-month time limit might affect the ability of the Register of Patents to disseminate up-to-date information to the public, which in turn might cause unnecessary loss to those who required such information for research and investment purposes. However, given the CFA ruling, Ms LAU agreed that this was no longer an issue.

71. The Chairman reminded Members that the deadline for giving notice of amendments (including repealing the Rules), if any, was Wednesday, 11 December 2002.

(e) **Report of the Subcommittee on draft subsidiary legislation to be made under the Securities and Futures Ordinance**
(*LC Paper No. CB(1) 434/02-03*)

72. Mr SIN Chung-kai, Chairman of the Subcommittee, reported that the Subcommittee had studied the draft subsidiary legislation and related legislative proposals put forward by the Administration.

73. Mr SIN Chung-kai said that the Subcommittee supported the 37 sets of draft subsidiary legislation with the proposed amendments to be made by the relevant authority. Mr SIN further said that there were some outstanding issues concerning the draft Securities and Futures (Insurance) Rules. The Securities and Futures Commission (SFC) had undertaken to revise this set of draft Rules in consultation with the industry. The Administration and SFC aimed to finalise the Rules in early 2003 and bring them into operation in tandem with the Securities and Futures Ordinance.

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74. Mr SIN added that the Subcommittee had entrusted the Legal Service Division to follow up with the Administration on the technical and drafting amendments to be made to the draft Rules in the light of the discussion with the Subcommittee.

75. Mr Henry WU said that even though the draft subsidiary legislation had been studied in detail by the Subcommittee, the securities and futures industry should be allowed sufficient time to consider the remaining batches of subsidiary legislation upon their gazettal, given that the 37 sets of Rules would have great impact on the operation of the industry.

76. Mr SIN Chung-kai said that the Subcommittee might consider holding further meeting(s) to consider the gazetted subsidiary legislation.

77. The Chairman said that in line with the existing practice, a subcommittee could be formed to study any of these items of subsidiary legislation upon gazettal, if considered necessary.

(f) Report of the Subcommittee on Karaoke Establishments (Licensing) Regulation and Karaoke Establishments (Fees) Regulation

78. Ms Audrey EU, Chairman of the Subcommittee, said that the Subcommittee had held three meetings with the Administration. In response to the Subcommittee's request, the Administration had agreed to move a number of amendments, including adding a defence provision for the offence of contravening the general conditions applicable to karaoke establishments. Ms EU further said that members were still concerned about the penalty levels in section 9 of the Karaoke Establishments (Licensing) Regulation, and had asked the Administration to consider lowering the penalty levels for contravening some of the conditions.

79. Ms Audrey EU informed Members that the Subcommittee considered that some of the fees for issue of a licence were on the high side when compared with that for restaurants and clubs. The Subcommittee had asked the Administration to provide further information on the costing of the fee items involved. The Subcommittee would meet with the Administration again on Monday, 9 December 2002 to conclude the discussion, and a written report would be made to the House Committee on 13 December 2002.

80. Ms Audrey EU reminded Members that the deadline for giving notice of amendments to the two Regulations was Wednesday, 11 December 2002.

(g) Report of the Subcommittee on Chinese Medicine (Fees) Regulation, Chinese Medicines Regulation and Chinese Medicines Traders (Regulatory) Regulation

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81. Dr LO Wing-lok, Chairman of the Subcommittee, reported that the Subcommittee had held four meetings with the Administration, and had met with representatives of the Chinese medicines trade.

82. Dr LO Wing-lok said that at the fourth meeting of the Subcommittee held on 6 December 2002, the Administration agreed to move a number of minor or textual amendments to the Chinese Medicines Regulation and the Chinese Medicines Traders (Regulatory) Regulation at the Council meeting on 18 December 2002. He added that the Subcommittee would submit a written report on its deliberations to the House Committee at its next meeting on 13 December 2002.

83. Dr LO Wing-lok reminded Members that the deadline for giving notice of amendments to the three Regulations was Wednesday, 11 December 2002

VII. Papers of the Committee on Rules of Procedure

(a) Proposed arrangements for the debate on the Policy Address in the 2002-03 Legislative Council session

(LC Paper No. CROP 19/02-03)

84. Presenting the paper, Mr TSANG Yok-sing, Chairman of the Committee on Rules of Procedure (CRoP), reported that on the request of the House Committee, CRoP had reviewed last year's arrangements for debating the 2001 Policy Address. CRoP's deliberations had mainly focused on the format of the debate and the arrangement for Members' speaking time in the debate, as Members and the Administration had not raised objection to the other arrangements. CRoP's proposals of the "3-day-5-session" debate format and an overall 20-minute speaking time limit for each Member were based on the results of consultation with all Members as detailed in paragraph 4 of the paper.

85. Mr TSANG said that the House Committee was invited to endorse the proposed arrangements set out in paragraphs 5 and 6 of the paper. Mr TSANG further said that CRoP also recommended in paragraph 2(a) of the paper that it would be for individual Panels to decide whether policy briefings on the Policy Address should be conducted, and whether such briefings should be held before or after the debate on the Motion of Thanks.

86. Mr CHEUNG Man-kwong said that Members belonging to the Democratic Party found the overall arrangement acceptable except for the 20-minute speaking time limit and the restriction that each Member could not speak more than once in each debate session. Mr CHEUNG further said that while Members belonging to political parties or groupings could focus on a

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particular debate session, Members not belonging to any political party or grouping might find 20 minutes insufficient for them to express their views fully at the various debate sessions.

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87. Mr CHEUNG also considered that subject to the overall 20-minute speaking time limit not being exceeded, a Member should be allowed to speak more than once in a debate session, as he might wish to respond to points made by other Members.

88. The Chairman said that Members should focus their discussion on CRoP's recommendations, and not re-visit issues already deliberated fully by CRoP. The Chairman pointed out that the membership of CRoP was broadly representative of the membership of the Council, and the views of all Members had been sought through a questionnaire before CRoP finalized its recommendations.

89. Mr Fred LI expressed agreement that a Member should be allowed to speak more than once in a debate session, provided that he had not used up his 20 minutes. Mr LI further said that as a member of CRoP, he had in fact raised the point at the CRoP meeting on 2 December 2002, but it was not discussed.

90. Mr TSANG Yok-sing responded that he could not agree with Mr Fred LI that the matter had not been discussed by CRoP. Mr TSANG pointed out that under last year's arrangements, Members were also not allowed to speak more than once in a debate session. Mr TSANG further pointed out that throughout CRoP's deliberations, there were only dissenting views on the format of the debate and the overall speaking time limit for Members. No Member had put forward the view that Members should be allowed to speak more than once in a debate session until at the last meeting when it was raised by Mr Fred LI. Mr TSANG considered that the matter had been resolved.

91. Mr TSANG further said that given the time constraint on the Council to hold the debate on the Motion of Thanks within a fixed number of days, the proposal provided the best balance in that Members had the flexibility of speaking in more than one debate session, subject to the overall time limit of 20 minutes not being exceeded. He pointed out that with a few exceptions specified in Rule 38 of the Rules of Procedure, it was the existing practice that a Member was not allowed to speak for more than once during a debate in Council.

92. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment of Hong Kong supported CRoP's recommendations. He agreed that the proposed arrangements had already provided flexibility in that a Member could choose to speak in one or more sessions subject to the overall 20-minute speaking time limit. He added that it was necessary to set an overall speaking time limit for each Member given the time constraint on the Council to hold the debate on the Policy Address within a few days.

Action

93. Ms Miriam LAU agreed that the overall 20-minute speaking time limit for each Member was necessary if the "3-day-5-session" format was to be adopted for the debate on the Policy Address. If Members were allowed to speak for more than 20 minutes, the debate would have to be extended to more than three days.

94. As regards Mr Fred LI's suggestion of allowing Members to speak for more than once in a debate session, Ms LAU said that Members were not allowed under the current rules to speak for more than once, except during the Committee Stage of a bill and under a few other situations specified in the Rules of Procedure. She further pointed out that except for the mover of the motion, it was also not possible for a Member to respond to the comments made by other Members during a debate on a motion without legislative effect. Ms LAU considered that unless changes were made to the relevant rules governing debates in the Council, it was not appropriate to introduce a new practice for debating the Policy Address by allowing Members to speak for more than once in a debate session.

95. The Chairman said that allowing Members to speak more than once in a debate session during the debate on the Motion of Thanks, as proposed by the Democratic Party, had important implications on the current format of holding debates in Council. The Chairman further said that if Members considered the idea worth exploring, it should be referred to CRoP for detailed study, and should not be discussed at this meeting.

96. Mr CHEUNG Man-kwong said that he did not wish to insist that the speaking time adopted for last year's debate should apply to this year's debate. He also had no intention of dwelling on the point that Members should be allowed to speak more than once in a debate session. All he wanted to do was to put forward the views of Members belonging to the Democratic Party.

97. The Chairman asked whether Members would want to take a vote on CRoP's recommendations.

98. Mr CHEUNG Man-kwong said that a vote would not be necessary, but the views of Members belonging to the Democratic Party should be recorded in the minutes.

99. Ms Miriam LAU said that as CRoP's recommendations were based on the results of its consultation with all Members, it was not necessary for the House Committee to take a vote.

100. Mr NG Leung-sing said that although he and several other Members not belonging to any political party or grouping preferred the "3+1" format adopted last year, they respected CRoP's recommendations made to the House

Action

Committee.

Action

101. Mr Andrew WONG said that he remained of the view that each Member should be allowed to speak for up to 15 minutes in a debate session of his choice, and if time permitted, a Member could speak for up to seven minutes in each of all other debate sessions. However, he agreed that a Member should not be allowed to speak for more than once in a debate session, irrespective of whether or not he had used up his 20 minutes.

102. The Chairman concluded that the majority of Members accepted the arrangements proposed by CRoP as set out in paragraphs 2(a), 5 and 6 of the paper.

(b) Consideration of whether it is appropriate for a Member who moves a motion at a Council meeting on behalf of a committee of the Council to speak and vote against the motion
(LC Paper No. CROP 20/02-03)

103. Referring to the paper, Mr TSANG Yok-sing, said that CRoP considered that whilst it appeared odd for a Member moving a motion on behalf of a committee to speak and vote against the motion, current rules in the Rules of Procedure did not prescribe that the Member must speak in favour of the motion. Moreover, there was no requirement that only the chairman of a committee might move a motion on behalf of the committee.

104. Mr TSANG further said that CRoP recommended that in the event that the chairman of a committee was not in favour of a motion that the committee would like to have moved in Council, or if the chairman did not wish to move the motion, the committee might consider designating one of its members who was in favour of the motion to move the motion. In other words, the mover of such a motion could be the chairman, the deputy chairman or another member of the committee.

105. Mr NG Leung-sing asked whether such a motion would be counted as the mover's own motion as an individual Member.

106. Mr TSANG responded that if the motion was not one without legislative effect, the question of whether such a motion would be counted as the mover's own motion as an individual Member would not arise. On motions without legislative effect, Mr TSANG said that as agreed at the House Committee meeting on 22 November 2002, only a Panel chairman who moved, on behalf of the Panel, a neutrally-worded motion on a Government consultative document would automatically be allocated a debate slot at a Council meeting. The motion would not be counted as the chairman's own slot as an individual Member. Mr TSANG added that as regards other requests from committees for priority allocation of debate slots, they would be dealt with by the House Committee on a case-by-case basis.

Action

107. Members endorsed CROp's recommendation as set out in paragraph 5 of the paper.

VIII. Any other business

LegCo Fun Day 2002-2003

108. The Chairman reminded Members that the Fun Day would be held on Friday, 13 December 2002. The Chairman urged Members to sign up for the games.

109. There being no other business, the meeting ended at 5:30 pm.

Council Business Division 2
Legislative Council Secretariat
11 December 2002