

立法會
Legislative Council

LC Paper No. CB(2) 1208/02-03

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 15th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 14 February 2003**

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
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
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 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
Dr Hon Philip WONG Yu-hong
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 Chin-shek, JP
 Hon LAU Kong-wah
 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 WONG Sing-chi
 Hon IP Kwok-him, JP
 Hon LAU Ping-cheung
 Hon Audrey EU Yuet-mee, SC, JP
 Hon MA Fung-kwok, JP

Members absent :

Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon CHAN Yuen-han, JP
Hon LAU Wong-fat, GBS, JP
Hon Frederick FUNG Kin-kee

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
Miss Polly YEUNG	Chief Assistant Secretary (1)3
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
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Monna LAI	Assistant Legal Adviser 7
Miss Betty MA	Senior Assistant Secretary (2)1

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I. Confirmation of the minutes of the 14th meeting held on 7 February 2003
(*LC Paper No. CB(2) 1136/02-03*)

The minutes were confirmed.

II. Matters arising

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

Announcement of the way forward in implementing Article 23 of the Basic Law and issuance of the Compendium of Submissions

2. The Chairman said that she had advised CS of the various points made by some Members regarding the announcement in relation to the Compendium of Submissions. She had also conveyed to CS Miss Margaret NG's request that once the Executive Council had given approval for the bill to implement Article 23 of the Basic Law (BL23) to be introduced into the Council, the Administration should brief the Council on the details of the bill in the first instance, prior to briefing the media. She had added that Members had raised no objection to Miss NG's request.

3. The Chairman informed Members that CS had noted the points mentioned and the request made by Members. The Chairman further informed Members that regarding the media briefing at the end of January 2003, CS had explained that the agreed principle was to consult the Chairman and/or Deputy Chairman of the relevant Panel and to brief the Panel first if necessary. CS

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had pointed out that the issue in question was nothing new and had in fact been discussed at length by the relevant Panels. However, CS agreed that it was important to maintain a good relationship with Panels and to consult them on policies at their embryonic stage.

4. The Chairman added that she had said that she was aware of the technical difficulties in organizing a briefing for the issue in question at the end of January 2003. She had emphasized, however, that the principle to brief the Council or its Panels in the first instance should be adhered to.

5. The Chairman said that CS had indicated that the Administration would try its best to brief the Council first.

6. Referring to the Secretary for Security making a statement concerning the bill to implement BL23 at the Council meeting on 12 February 2003, Ms Emily LAU said that it was the proper way of doing things and the Administration's effort should be recognized. Ms LAU further said that the Administration should, in future, make the same arrangement of briefing the Legislative Council (LegCo) first on any important announcements or matters, before briefing the media.

**Report of the Bills Committee on Education Reorganization
(Miscellaneous Amendments) Bill 2002**

7. The Chairman said that she had informed CS that some Members had found it unsatisfactory that the Administration had sought the Finance Committee's approval for the establishment changes before the enactment of the Bill. These Members were of the view that staffing and financial proposals should follow legislative approval. The Chairman added that she had requested CS to look into the matter.

**(b) Legal Service Division report on subsidiary legislation gazetted on
10 January 2003 and tabled in Council on 15 January 2003**

Ocean Park Bylaw

(Paragraphs 20 and 21 of the minutes of the 14th House Committee meeting on 7 February 2003)

(Letter dated 27 January 2003 from Assistant Legal Adviser 7 (ALA 7) to Secretary for Home Affairs (SHA) and letter dated 7 February 2003 from SHA to ALA 7)

[Previous papers:

LC Paper No. LS 40/02-03 issued vide LC Paper No. CB(2) 1025/02-03 dated 23 January 2003; and

Paragraphs 16 to 27 of the minutes of the 13th House Committee

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*meeting on 24 January 2003 - LC Paper No. CB(2) 1047/02-03 issued
vide LC Paper No. CB(2) 1097/02-03 dated 5 February 2003]*

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8. The Chairman said that at the meeting on 24 January 2003, Mr James TO had raised some queries on the Bylaw, and the Legal Service Division had been requested to seek clarification on these queries.

9. Mr James TO said that he was not satisfied with the Administration's reply, and suggested that a subcommittee should be formed to discuss the Bylaw with the Administration and the Ocean Park Corporation.

10. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join : Mrs Selina CHOW, Mr James TO, Mr Henry WU and Mr LEUNG Fu-wah.

11. The Chairman said that the scrutiny period of the Bylaw had been extended to 5 March 2003 by resolution of the Council. However, the Financial Secretary would be presenting the Budget at the Council meeting on that day, and ordinary Council business would normally not be transacted at that Council meeting. The Chairman further said that if the queries on the Bylaw could not be sorted out in time for amendments, if any, to be made at the Council meeting on 26 February 2003, it might be necessary to repeal the Bylaw first.

12. The Legal Adviser said that there had been past cases where an item of subsidiary legislation was repealed by resolution of the Council to allow more time for the relevant subcommittee to complete its scrutiny work.

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) Copyright (Amendment) Bill 2003

*(Director of Administration's letter dated 13 February 2003 on "Proposed Priority in the Scrutiny of Bills by Members")
(LC Paper No. LS 55/02-03)*

13. The Legal Adviser said that the Bill sought to implement certain proposals following a review of the law on copyright and to repeal the Copyright (Suspension of Amendments) Ordinance 2001 which suspended the operation of certain amendments effected by the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 (64 of 2000). He added that the Suspension Ordinance would expire on 31 July 2003.

14. The Legal Adviser further said that some of the issues of the Bill were related to those being considered by the Bills Committee scrutinizing the

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Copyright (Amendment) Bill 2001.

15. Mr SIN Chung-kai said that at the meeting of the Bills Committee on Copyright (Amendment) Bill 2001 held in the morning of 14 February 2003, members present suggested that the Bills Committee should also study the Copyright (Amendment) Bill 2003, as the two Bills were related.

16. The Chairman said that there were precedents for one Bills Committee to study two related bills, e.g. the Smoking (Public Health) (Amendment) Bill 1997 and the Smoking (Public Health) (Amendment) (No. 2) Bill 1997 were studied by the same Bills Committee. The Chairman said that if Members agreed that the two Bills in question should be studied by one Bills Committee, the Bills Committee on Copyright (Amendment) Bill 2001 would need to re-open its membership.

17. Dr YEUNG Sum expressed support for the suggestion of having one Bills Committee to study the two Bills. He also agreed that the Bills Committee on Copyright (Amendment) Bill 2001 should re-open its membership. He added that it would be for the Bills Committee to decide how it should scrutinize the two Bills.

18. Responding to Mr IP Kwok-him, Mr SIN Chung-kai said that members of the Bills Committee on Copyright (Amendment) Bill 2001 considered that the two Bills could be examined consecutively or in parallel. He added that if necessary, the Second Reading debate on either Bill could be resumed ahead of the other Bill, if the relevant scrutiny work had been completed. He explained that the Bills Committee's suggestion was to ensure that the related provisions in the two Bills were consistent and compatible.

19. Miss Margaret NG said that while she had no strong view on the Bills Committee's suggestion, she did not consider it necessary for the two Bills to be examined by the same Bills Committee. Miss NG further said that it would be more appropriate for Members to study these two Bills by separate Bills Committees.

20. Mr IP Kwok-him said that there might be practical problems in pursuing the Bills Committee's suggestion. He pointed out that if the Bills Committee on Copyright (Amendment) Bill 2001 was to re-open its membership, the Bills Committee might have to re-visit those issues relating to the Copyright (Amendment) Bill 2001, which had already been deliberated, for the benefit of its new members. Mr IP considered that it might be more appropriate for the Bills Committee on Copyright (Amendment) Bill 2001 to complete its scrutiny work first and report to the House Committee. Members of the Bills Committee on Copyright (Amendment) Bill 2001 could automatically become members of the new Bills Committee on the Copyright (Amendment) Bill 2003

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for higher efficiency.

21. The Chairman said that she was also a member of the Bills Committee on Copyright (Amendment) Bill 2001 and in the course of deliberating the Bill, the suspension provisions, which were being dealt with in the Copyright (Amendment) Bill 2003, were often referred to. The Chairman further said that if a separate Bills Committee was formed to study the Copyright (Amendment) Bill 2003, it was likely that the two Bills Committees would comprise the same membership. The Chairman added that having one Bills Committee to study the two Bills could achieve higher efficiency, especially when discussing the policy aspects and general principles of the two Bills.

22. Mr HUI Cheung-ching said that he did not object in principle to having one Bills Committee to study the two Bills, but considered it more appropriate for the two Bills to be examined separately. Mr HUI further said that as the Copyright (Amendment) Bill 2003 sought to make permanent the suspension arrangement, it should be enacted as early as possible.

23. Ms Cyd HO said that she was also a member of the Bills Committee on Copyright (Amendment) Bill 2001. Ms HO believed that members of this Bills Committee would also join the Bills Committee on Copyright (Amendment) Bill 2003 if a separate Bills Committee was to be formed to study the Bill. Ms HO further said that some of the provisions of the two Bills were related, e.g. the new concept of e-book. Ms HO added that she supported the suggestion of the two Bills being studied by the same Bills Committee not for saving time in the scrutiny work, but for ensuring consistency and compatibility of the related provisions in the two Bills.

24. Mr MA Fung-kwok said that if the two Bills were studied by the same Bills Committee, it did not necessarily mean that resumption of Second Reading debate on the two Bills should take place at the same time. He further said that if the Bills Committee was satisfied that the two Bills were not in conflict with each other, then the Second Reading debate on either one of these two Bills could resume as soon as possible, upon completion of the relevant scrutiny work.

25. Mr IP Kwok-him sought clarification on whether the passage of either one of the two Bills would have implications on the other Bill. The Legal Adviser advised that both Bills contained provisions relating to e-books, possession of copies of copyright work, parallel importation of copyright work, and scope of exclusion, etc. He further said that it would be more desirable if the Administration had introduced a single bill incorporating all the legislative proposals in the two Bills.

26. Ms Audrey EU agreed that the two Bills contained overlapping

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provisions, e.g. both Bills dealt with the copyright of e-books and they also made reference to section 35 of the Copyright Ordinance on the definition of "infringing copy".

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27. Mr James TIEN said that Members belonging to the Liberal Party were of the view that, as a matter of principle, bills requiring Bills Committees should be studied separately. Mr TIEN was concerned that the present suggestion of having one Bills Committee to study the two Bills would set a precedent that, in future, where a bill was considered to be somewhat related to another bill under scrutiny by a Bills Committee, it could be examined ahead of the other bills already introduced and placed on the waiting list. However, Mr TIEN said that having regard to Members' views expressed at the meeting, he did not object to making an exceptional arrangement for the same Bills Committee to study the two Bills in question.

28. The Chairman clarified that there was no question of the Copyright (Amendment) Bill 2003 "jumping the queue" if it was to be studied by the Bills Committee on Copyright (Amendment) Bill 2001. The Chairman referred Members to the Director of Administration's letter dated 13 February 2003 requesting priority to be given to the scrutiny of the Copyright (Amendment) Bill 2003. She pointed out that as a vacant slot would be available after the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2001 reported under item VI(b) below, if a separate Bills Committee was formed to study the Copyright (Amendment) Bill 2003, it could commence work immediately.

29. Miss Margaret NG said that although she did not have strong views against the suggestion, it was not necessary to study the two Bills together simply for higher efficiency, having regard to the background of enacting the Copyright (Suspension of Amendments) Ordinance 2001. Miss NG further said that the Copyright (Suspension of Amendments) Ordinance 2001 sought to suspend the operation of certain amendments to the Copyright Ordinance effected by the Intellectual Property (Miscellaneous Amendments) Ordinance 2002, subject to certain exemptions. This was an interim arrangement to enable the Administration to look for longer-term measures to address the concerns of the community.

30. Responding to Mr TSANG Yok-sing, the Chairman said that if Members agreed that the two Bills should be studied by the same Bills Committee, the vacant slot would be taken up by the Bills Committee at the top of the waiting list.

31. The Chairman proposed that the Bill should also be studied by the Bills Committee on Copyright (Amendment) Bill 2001, and the membership of the Bills Committee should be re-opened. Members agreed.

(ii) Tung Chung Cable Car Bill
(LC Paper No. LS 56/02-03)

32. The Legal Adviser explained that the Bill sought to provide the legal

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framework for the grant of a 30-year franchise to the Mass Transit Railway Corporation Limited or its wholly-owned subsidiary for the design, construction, operation and maintenance of a Cable Car System linking Tung Chung and Ngong Ping on Lantau Island.

33. The Legal Adviser pointed out that the Panel on Economic Services (ES Panel) was consulted on 26 February 2001 on the Administration's proposal, and on 3 July 2002 and 29 July 2002 about the outcome of the operator selection exercise and the way forward for the Project. The Panel also discussed the main features of the Bill at a subsequent meeting on 25 November 2002. The Legal Adviser further pointed out that members of the Panel had expressed concern over a wide range of issues.

34. The Legal Adviser said that in view of the concerns about the various aspects of the Project and the System expressed by members of ES Panel, Members might wish to consider setting up a Bills Committee.

35. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Ms Cyd HO, Mrs Selina CHOW, Mr SIN Chung-kai and Ms Miriam LAU.

36. The Chairman added that the Bills Committee would be placed on the waiting list until a vacant slot was available.

(b) Legal Service Division report on subsidiary legislation gazetted on 7 February 2003 and tabled in Council on 12 February 2003
(LC Paper No. LS 59/02-03)

37. The Legal Adviser said that there were six items of subsidiary legislation gazetted on 7 February 2003 and tabled in Council on 12 February 2003.

38. Regarding the Registration of Electors (Appeals) (Amendment) Regulation 2003 and the Election Committee (Registration) (Voters For Subsectors) (Members of Election Committee) (Appeals) (Amendment) Regulation 2003, the Legal Adviser explained that the Electoral Provisions (Miscellaneous Amendments) Ordinance 2002 was passed on 18 December 2002 to make provisions, amongst other things, to adjust the cycle for the compilation and publication of electoral registers for geographical constituencies and functional constituencies, and registers of voters for Election Committee subsectors. The Legal Adviser further explained that these two Amendments Regulations sought to amend the respective periods provided in the Registration of Electors (Appeals) Regulation (Cap. 542 sub. leg.) and the Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap. 569 sub. leg.) relating to the hearings of appeals, claims or objections, as well as the notification and review

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of such rulings.

39. The Legal Adviser said that the two Amendment Regulations would come into operation on 4 April 2003. He further said that no difficulties relating to the legal and drafting aspects of the Amendment Regulations had been identified.

40. Members did not raise any queries on the two Amendment Regulations.

41. Regarding the Fugitive Offenders (Sri Lanka) Order, the Legal Adviser said that a subcommittee was formed to study the previous Order in 2001 and recommended that the Order be repealed as there were issues which needed to be further discussed. The previous Order was repealed by resolution of the Council on 21 November 2001, and another subcommittee comprising the same members was subsequently formed to study the outstanding issues. The Legal Adviser added that the subcommittee had no objection to the re-gazettal of the previous Order.

42. The Legal Adviser explained that the Order implemented the bilateral agreement signed with the Democratic Socialist Republic of Sri Lanka for the surrender of fugitive offenders. Its content was the same as the Order previously gazetted on 12 October 2001 and tabled in Council on 17 October 2001.

43. The Legal Adviser said that the main effect of the Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 2003 was to vest the management and control of those public pleasure grounds now specified in Schedule 1 to the Order in the Director of Leisure and Culture Services.

44. Members did not raise any queries on the above two Orders.

45. As regards the Trade Marks Rules and the Trade Marks Ordinance (Cap. 559) (Commencement) Notice 2003, the Legal Adviser said that in May 2000, LegCo passed the Trade Marks Ordinance (Cap. 559) which repealed the existing Trade Marks Ordinance (Cap. 43). The new Ordinance modernized Hong Kong's trade mark law, and the Secretary for Commerce, Industry and Technology had now appointed 4 April 2003 as the day on which the new Ordinance would come into operation.

46. The Legal Adviser further said that the Rules set out the procedures relating to application, examination, publication, renewal and removal of registration of trade mark, and the Legal Service Division was still scrutinizing the Rules.

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47. The Legal Adviser pointed out that the Panel on Commerce and Industry was consulted at its meetings on 11 November 2002 and 21 January 2003. Members suggested that a labelling requirement should be imposed on parallel-imported trade mark goods to help consumers identify the concerned parallel importers. Panel members had also sought clarification from the Administration on matters such as electronic filing of applications, fees, and publicity programmes.

48. Miss Margaret NG said that she was the Chairman of the former Bills Committee on Trade Marks Bill, and that in the course of deliberating the Bill, the trade mark practitioners had expressed strong views on certain implementation problems relating to the draft Rules. The Administration had advised the Bills Committee that it would consult the trade before the draft Rules were finalized.

49. Miss Margaret NG further said that while it was the wish of the trade that the Trade Marks Ordinance and Trade Mark Rules should come into operation as early as possible, the trade was of the view that some of their concerns had not been fully addressed. Miss NG suggested that a subcommittee should be formed to listen to the views of the trade associations.

50. The Chairman proposed that a subcommittee be formed to study these two items of subsidiary legislation. Members agreed. The following Members agreed to join : Mrs Selina CHOW, Miss Margaret NG, Mr HUI Cheung-ching, Mr SIN Chung-kai and Mr WONG Yung-kan (as advised by Mr IP Kwok-him).

51. The Chairman said Members that the deadline for amending these items of subsidiary legislation was 12 March 2003, or 2 April 2003 if extended by resolution.

IV. Further business for the Council meeting on 19 February 2003

(a) Questions

(LC Paper No. CB(3) 352/02-03)

(Letter dated 13 February 2003 from Hon MAK Kwok-fung to Chairman of the House Committee regarding his request to ask an urgent question without the required notice at the Council meeting on 19 February 2003(Chinese version only))

52. The Chairman said that Mr MAK Kwok-fung had changed his original written question no. 20 to an oral question, and his original oral question no. 6 to a written question.

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53. The Chairman further said that Mr MAK had made a request under Rule 24(4) of the Rules of Procedure to ask an urgent question without the required notice concerning the recent outbreak of pneumonia in Guangzhou at the Council meeting on 19 February 2003. The Chairman added that Mr MAK wished to seek the House Committee's support for his request in accordance with rule 10 of the House Rules.

54. Referring to his letter dated 13 February to the Chairman, Mr MAK Kwok-fung said that it was widely reported in the media that there was an outbreak of pneumonia in Guangzhou and some Hong Kong people who had visited Guangzhou had also been infected. As there were no apparent signs that the outbreak was under control, and since Hong Kong maintained very close contact with Guangzhou, he considered that the Administration should inform the public of the latest situation and whether a notification system on infectious and serious diseases would be put in place. He hoped that his question would also help enhance public awareness about the possible infection of pneumonia.

55. Mr LEUNG Fu-wah said that he had just returned from Guangzhou. He had found that the atmosphere there was calm and Guangzhou residents went about their daily lives in the usual way. Mr LEUNG added that he was not opposed to Mr MAK's request.

56. Mr CHAN Kam-lam said that the latest media reports revealed that the outbreak of pneumonia in Guangzhou was now under control, and there was no evidence of a similar outbreak in Hong Kong. Mr CHAN considered that Mr MAK's question on pneumonia was not of an urgent character. He further said that part of the answer to Mr MAK's question could in fact be obtained from media reports or the Department of Health.

57. Mr Albert CHAN asked whether there had been past cases in which permission had been given for urgent questions to be raised at Council meetings. Assistant Secretary General 2 confirmed that the President had given permission in the past, e.g. in 1997 for Mr Allen Lee to ask an urgent question concerning a cyanide spill incident, and in 1998 for Prof NG Ching-fai to ask an urgent question on the mode of operation in respect of the mass slaughter of chickens and disposal of carcasses following the outbreak of avian flu. In both these two cases, the House Committee had expressed support for the urgent questions to be asked. Assistant Secretary General 2 further said that on another occasion in 1997, the House Committee did not support Ir Dr Raymond HO's request to ask an urgent question concerning the progress of the territory-wide slope maintenance works. Members generally considered that the subject matter of the question was important, but it was not of an urgent character.

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58. Miss Margaret NG said that although the subject matter of Mr MAK's question was important, it was not of an urgent character. Miss NG further said that the previous urgent questions raised were on matters which had happened in Hong Kong and it was important for Members to obtain an answer in the first instance. Miss NG added that there was no indication that there was an outbreak of pneumonia in Hong Kong, and Mr MAK's question mainly sought information from the Administration about the number and analysis of infection cases. As regards Mr MAK's concern about the establishment of a notification system between the Guangdong authorities and Hong Kong on infectious and serious diseases, Miss NG considered that this was a long-term matter which required detailed discussion with the Administration.

59. Mr NG Leung-sing said that without professional advice on the seriousness of the recent outbreak of pneumonia in Guangzhou, Members would have difficulties in determining whether Mr MAK's question was of an urgent character.

60. The Chairman said that in considering whether or not to support Mr MAK's request, Members should have regard to whether the subject matter was so urgent that an answer from the Administration must be sought within a certain time limit and therefore the notice requirement should be dispensed with.

61. Dr LO Wing-lok said that given the limited time allocated for an oral question at a Council meeting and the fact that the subject matter required in-depth discussion, it would be more suitably dealt with by the relevant Panel.

62. Ir Dr Raymond HO asked whether Mr MAK Kwok-fung could replace his oral question scheduled for the Council meeting on 19 February 2003 with this urgent question. The Chairman said that this was not permitted under the current rules, as the deadline for giving notice of questions for the Council meeting on 19 February 2003 had already expired.

63. Mr MAK Kwok-fung said that he wished to withdraw his request in view of Members' comments made at this meeting.

(b) Bills - resumption of debate on Second Reading, Committee Stage and Third Reading

Education Reorganization (Miscellaneous Amendments) Bill 2002

64. The Chairman said that the Bills Committee reported to the House Committee at the last meeting, and Members had not raised objection to the resumption of the Second Reading debate on the Bill.

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(c) **Members' Bills - First Reading and moving of Second Reading**

Dao Heng Bank Limited (Merger) Bill

65. The Chairman said that the Bill would be introduced by Dr David LI Kwok-po into the Council on 19 February 2003 and considered by the House Committee on 21 February 2003.

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V. Business for the Council meeting on 26 February 2003

(a) Questions

(LC Paper No. CB(3) 353/02-03)

66. The Chairman said that there were 20 questions (six oral and 14 written) scheduled for the Council meeting on 26 February 2003.

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

National Security (Legislative Provisions) Bill

67. The Chairman said that the Bill would be introduced into the Council on 26 February 2003 and considered by the House Committee on 28 February 2003.

(c) Bills - resumption of debate on Second Reading, Committee Stage and Third Reading

Dutiable Commodities (Amendment) Bill 2002

68. The Chairman said that the Administration had withdrawn its earlier notice to resume the Second Reading debate on the Bill at the Council meeting on 19 February 2003, and had given a fresh notice to resume the Second Reading debate on the Bill on 26 February 2003 instead.

(d) Government motion

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

(e) Members' motions

(i) Motion on "Opposing cutbacks in welfare benefits"

(Wording of the motion issued vide LC Paper No. CB(3) 371/02-03 dated 13 February 2003.)

(ii) Motion on "Compendium of Submissions on the Consultation Document on Proposals to Implement Article 23 of the Basic Law"

(Wording of the motion issued vide LC Paper No. CB(3) 372/02-03 dated 13 February 2003.)

70. The Chairman said that the above motions would be moved by Mr WONG Sing-chi and Mr SIN Chung-kai respectively and the wording of the motions had been issued to Members.

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71. The Chairman further said that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 19 February 2003.

VI. Report of Bills Committee and subcommittee

(a) Position report on Bills Committees/subcommittees
(LC Paper No. CB(2) 1152/02-03)

72. The Chairman said that there were 14 Bills Committees and five Subcommittees in action as well as four Bills Committees, including the Bills Committee on Tung Chung Cable Car Bill formed under agenda item III(a) above, on the waiting list.

73. The Chairman added that as there would be a vacant slot after the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2001 had reported under item VI(b) below, the Bills Committee on Stamp Duty (Amendment) Bill 2002 could commence work.

(b) Report of the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2001
(LC Paper No. CB(2) 1151/02-03)

74. Mr Eric LI, Chairman of the Bills Committee, explained that the Bill sought to provide a legal basis for the use of password for authentication and fulfilment of signature requirement for tax returns filed under the Electronic Service Delivery (ESD) Scheme and the filing of tax returns by telephone. Mr LI informed Members that the Bills Committee had held five meetings with the Administration, including a meeting to listen to views of the professional bodies and information technology (IT) sector.

75. Mr Eric LI said that the professional bodies and IT sector which had given views to the Bills Committee had expressed much concern about the security and the risks involved in the use of password as a signing device for filing tax returns electronically. They were of the view that the proposed use of a Personal Identification Number (PIN) or password for filing tax returns under the ESD Scheme and the telefiling system could not satisfy the signature requirements in the same way as digital signature, particularly when a taxpayer had to shoulder the legal consequences of filing any incorrect return which was criminal responsibility.

76. Mr LI further said that to better understand the operation of the proposed systems, the Bills Committee had requested the Administration to demonstrate how the proposed systems operated. As this was the first legislative proposal

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in Hong Kong providing a legal basis for the use of password for the purposes of authentication and fulfilment of signature requirement in electronic transactions, the Bills Committee had also considered the experience of other tax jurisdictions which had also accepted the use of passwords to sign tax returns for filing electronically. The Bills Committee noted that no major security problem associated with the use of password in filing tax returns electronically in other tax jurisdictions, apart from an incident in the United Kingdom (UK), had come to the Administration's attention. Mr LI added that according to the Administration, Hong Kong's system was of a different design from that of the UK.

77. Mr Eric LI informed Members that having regard to members' concern, the Administration had undertaken to highlight in its publicity and information pamphlets on the new service that there was a difference in security between using password and using digital signature for filing tax returns under the ESD Scheme.

78. Mr Eric LI further informed Members that after its last meeting, the Bills Committee had received two more submissions from the IT sector reiterating their objection to the use of PIN or password for authentication and fulfilment of signature requirement for filing tax returns electronically. As the points made in the two submissions had been discussed by the Bills Committee and more information had been obtained from the Administration, the Bills Committee considered that no further meeting was necessary.

79. Mr Eric LI advised that the Bills Committee was of the view that the Bill aimed to provide a legal basis for providing an option for the use of password and the use of telephone for filing tax returns, and that the design of the systems and the security issues were outside the scope of the Bill. He added that the Bills Committee considered that it was the Administration's responsibility to provide sufficient security safeguards in the proposed systems, and suggestions made by members in this respect were only for the Administration's consideration.

80. Mr Eric LI further said that the Administration had taken on board some of the suggestions of the Bills Committee and the deputations, and would move Committee Stage amendments accordingly. Mr LI added that the Bills Committee supported the resumption of Second Reading debate on the Bill.

81. Mr SIN Chung-kai informed Members that after the last meeting of the Bills Committee, he had arranged a meeting which was attended by representatives of the IT sector (including the two organizations which had sent in their submissions lately) and the Administration. Mr SIN said that these two organizations opposed in principle any form of electronic signature other than digital signature for fulfilment of signature requirements in electronic

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transactions. He further said that as the views expressed in the two recent submissions had been fully deliberated by the Bills Committee, he had not requested the Bills Committee to hold further meetings to discuss these views. Mr SIN added that it would be for Members to decide whether they would support the Bill after considering the views of these organizations and the Administration's explanation.

82. Members did not raise objection to the resumption of Second Reading debate on the Bill.

VII. Report of the delegation of the Panel on Information Technology and Broadcasting to study the information technology and related sectors in the Republic of Korea

(LC Paper No. CB(1) 819/02-03)

83. Mr SIN Chung-kai, Chairman of the Panel on Information Technology and Broadcasting (ITB Panel) and delegation leader, said that the House Committee gave approval on 31 May 2002 for the ITB Panel to conduct a duty visit to the Republic of Korea from 23 to 27 September 2002. Mr SIN further said that the delegation had now published its report, which had earlier been considered by the ITB Panel, for Members' information.

84. Mr SIN said that the delegation's observations as detailed in the report could serve as useful reference for policy makers and legislators in the pursuit of an advanced information economy.

85. Mr SIN further said that the delegation would like to express its thanks to the Consulate-General of the Republic of Korea in Hong Kong and the Seoul Office of the Hong Kong Tourism Board for providing assistance and support for the visit.

VIII. Proposed parliamentary visit to Singapore and Thailand

(LC Paper No. CB(3) 338/02-03)

86. Dr LUI Ming-wah, Chairman of the Parliamentary Liaison Subcommittee, said that the paper invited the House Committee to endorse the recommendation of the Parliamentary Liaison Subcommittee to organize a parliamentary visit to Singapore and Thailand from 23 to 29 April 2003.

87. Dr LUI Ming-wah further said that the visit aimed to enhance the Council's ties with the Singapore-Hong Kong Parliamentary Friendship Group, foster liaison with members of the Thai National Assembly, and to update these legislatures on the latest developments in the Hong Kong Special Administrative Region. Dr LUI added that the Subcommittee also suggested

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that the programme should include meetings with parliament members and committees dealing with economic development, trade and commerce, heritage preservation and housing matters, as well as senior officials of the Singaporean and Thai Governments, and other non-government organizations. Dr LUI also referred Members to the Appendices to the paper which set out the draft budget for the proposed visit and a proposed flight and boarding schedule.

88. Dr LUI Ming-wah said that as determined by The Legislative Council Commission at its meeting on 20 February 2001, there would be eight fully-sponsored Members on a parliamentary visit. The selection of Members for joining the delegation would be made in accordance with the mechanism as agreed by the House Committee at its meeting on 19 January 2001 i.e. Members were divided into six defined groups and the eight places were allocated among these groups on a pro-rata basis; each group of Members would decide its own way to nominate the participating Members.

89. Dr LUI Ming-wah further said that subject to Members' endorsement of the proposal visit, the LegCo Secretariat would make detailed arrangements, including liaison with the Consulates General and the Hong Kong Economic and Trade Office concerned, as well as inviting applications from Members for joining the delegation.

90. Members expressed support for the proposed visit.

IX. Any other business

91. There being no further business, the meeting ended at 3:34 pm.