

立法會  
*Legislative Council*

LC Paper No. CB(2) 2376/02-03

Ref : CB2/H/5

**House Committee of the Legislative Council**

**Minutes of the 28th meeting  
held in the Legislative Council Chamber  
at 4:25 pm on Friday, 6 June 2003**

**Members present :**

Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP (Chairman)

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 Eric LI Ka-cheung, JP

Dr Hon LUI Ming-wah, JP

Hon NG Leung-sing, JP

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 Howard YOUNG, JP

Dr Hon YEUNG Sum

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 :**

Hon Fred LI Wah-ming, JP (Deputy Chairman)  
Hon Kenneth TING Woo-shou, JP  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Dr Hon David LI Kwok-po, GBS, JP  
Hon Margaret NG  
Hon James TO Kun-sun  
Dr Hon Philip WONG Yu-hong  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon YEUNG Yiu-chung, BBS  
Hon LAU Chin-shek, 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 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 Connie FUNG	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Monna LAI	Assistant Legal Adviser 7
Miss Betty MA	Senior Assistant Secretary (2)1

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## Action

### **I. Confirmation of the minutes of the 27th meeting held on 30 May 2003 (LC Paper No. CB(2) 2302/02-03)**

The minutes were confirmed.

### **II. Matters arising**

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

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Report of the Panel on Health Services on its proposal for a select committee to be appointed to inquire into the handling of the Severe Acute Respiratory Syndrome (SARS) outbreak

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2. The Chairman informed Members that she had advised CS of the motion passed by the House Committee at its meeting on 30 May 2003.

3. The Chairman further informed Members that CS had responded that in the Administration's view, the most constructive measure to take was to find out the causes of the SARS outbreak and then to make improvements to the handling of such a situation. The appointment of a SARS Experts Committee headed by the Secretary for Health, Welfare and Food (SHWF) was for such a purpose. CS had emphasized that the SARS Experts Committee was absolutely independent. The Administration had decided not to appoint a Commission of Inquiry.

4. The Chairman said that she had explained to CS that Members had no objection to the appointment of the SARS Experts Committee, but Members considered it also necessary to review the handling of the SARS outbreak and look at the question of responsibility.

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5. The Chairman further said that after the House Committee meeting on 30 May 2003, she had intended to write to inform the Chief Executive (CE) of the motion passed by Members. However, given CS's response, she considered it necessary to convey the Administration's view to Members and seek Members' agreement for her to write formally to CE. The Chairman added that the record of the discussion on the matter should be provided to CE to enable him to better understand Members' views on the need for an independent inquiry to look at the question of responsibility in the handling of the SARS outbreak.

6. Dr YEUNG Sum said that he was disappointed with CS's response, and it was regrettable that there was no opportunity to ask CS about the matter at the special meeting held just before this meeting. Dr YEUNG considered that the Administration had totally disregarded Members' concern that there was conflict of interest in SHWF chairing the Experts Committee and examining his own role in the handling of the SARS outbreak. Dr YEUNG added that the Administration's decision of not appointing a Commission of Inquiry had cast doubt on its moral standards.

7. Dr YEUNG pointed out that the motion passed by the House Committee on 30 May 2003 showed that Members had no objection to the Experts Committee conducting its review. The Administration had ample time to consider the need for a Commission of Inquiry after the release of the Experts Committee's report in October. Dr YEUNG said that he agreed with the Chairman that she should write to CE to provide him with the record of Members' discussion on the matter, and request him to give serious consideration to the motion passed by the House Committee.

8. Dr YEUNG said that there was increasing demand from the community for the appointment of a Commission of Inquiry. Dr YEUNG pointed out that apart from the residents of Amoy Gardens, the Hong Kong Public Doctors' Association, which represented the frontline medical doctors, had also urged for an independent inquiry into the handling of the SARS outbreak.

9. Ms Emily LAU said that the Chairman should formally write to CE on the matter, although she did not have high hopes that CE would change his mind. Ms LAU further said that she was surprised that CS had provided such a response when the Chairman had not yet written to CE. Ms LAU considered that the Administration had totally disregarded the opinion of the public that there should be an independent inquiry, and Members should make the necessary preparatory work for the setting up of a select committee at the beginning of the next session.

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10. Mr Michael MAK said that he was disappointed with the Administration's decision. He expressed support that the Chairman should formally write to CE on the motion passed by the House Committee, highlighting Members' concern that there was conflict of interest in SHWF chairing the Experts Committee. Mr MAK added that Members belonging to the Democratic Alliance for Betterment of Hong Kong had voted in favour of the motion that the House Committee would consider the setting up of a select committee, if the Administration refused to appoint a Commission of Inquiry. He hoped that they would not change their minds later on.

11. Dr LO Wing-lok expressed support for the Chairman to write to CE on the matter. Dr LO said that the majority of the medical professionals who had given views to him were in support of an independent inquiry, and some medical associations had already written to CE on the matter. He added that the Hong Kong Medical Association would conduct a survey to gauge the views of its members about the appointment a Commission of Inquiry by the Administration to inquire into the outbreak.

12. Mr Michael MAK added that his constituents were generally in support of an independent inquiry. He would conduct a questionnaire survey to obtain the views of his constituents, and report the findings to Members.

13. The Chairman said that she would write to CE to inform him of the motion passed by the House Committee on 30 May 2003, and also provide him with the relevant extract from the minutes of the meeting on 30 May 2003. Members agreed.

Special meetings of Panels held at the Administration's request

14. The Chairman said that she had advised CS of the concern raised by Members regarding the Administration's request for Panel meetings to be held at short notice.

15. The Chairman further said that CS had pointed out that the Administration had agreed to briefing Members as soon as possible on its new policies and measures. It was sometimes necessary to request for a special Panel meeting at short notice when the matter in question was urgent.

16. The Chairman added that she and CS agreed that co-operation between Members and the relevant Bureau(x) was necessary in this respect.

**III. Legal Service Division report on subsidiary legislation gazetted on 30 May 2003**

*(LC Paper No. LS 121/02-03)*

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17. The Legal Adviser said that nine items of subsidiary legislation were gazetted on 30 May 2003 and would be tabled in Council on 11 June 2003.

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18. The Legal Adviser explained that Part I of the report covered six items of subsidiary legislation which were the second part of the relief and economic revival measures required to be effected by subsidiary legislation. The Legal Adviser further explained that the six items of subsidiary legislation included the Karaoke Establishments (Fee Concessions) Regulation 2003, Road Traffic (Waiver of Motor Vehicle Licence Fees) Regulation 2003, Travel Agents (Waiver of Fees) Regulation 2003, Dutiable Commodities (Waiver of Liquor Licence Fees) Regulation 2003, Places of Public Entertainment (Waiver of Fees) Regulation 2003 and Road Traffic (Waiver of Passenger Service Licence Fees) Regulation 2003. They provided for waiver or reduction of various licence fees for a period of one year commencing on 1 June 2003.

19. The Legal Adviser said that the Panel on Financial Affairs expressed general support of the proposals when it was briefed on them at its special meeting on 23 April 2003.

20. The Legal Adviser further said that according to the Administration, holders of licences which were valid for more than one year and would not expire during the concession period would, upon application, be refunded the licence fees already paid on a pro-rata basis. A letter from the Administration explaining how this would be effected would be circulated to Members for information.

21. The Legal Adviser informed Members that regarding licence fees for hotels and guesthouses payable under the Hotel and Guesthouse Ordinance and the fees for restaurant licences, restricted food permits and hawker licences payable under the Public Health and Municipal Ordinance, waiver or refund of the relevant fees would be effected through the exercise of existing statutory powers without the need for additional subsidiary legislation.

22. Members did not raise any queries on these six items of subsidiary legislation.

23. Regarding the Dutiable Commodities (Amendment) Regulation 2003, the Legal Adviser explained that the Regulation amended the principal Regulations to remove the standards of quality prescribed for certain categories of Chinese-type spirits, including rice spirit and millet spirit. The effect was that the all types of Chinese-type spirits might be supplied and sold in Hong Kong.

24. The Legal Adviser said that to facilitate the assessment of duties payable for liquors, the Regulation provided that unless otherwise exempted, every container of liquor imported into or manufactured in Hong Kong for local consumption was required to bear a label stating clearly the alcoholic strength, or the range of alcoholic strength, of the liquor. Non-compliance with this labelling requirement would be an offence and the importer or

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manufacturer would be liable on conviction to a fine at level 5 (i.e. \$50,000).

25. The Legal Adviser further said that the Regulation would come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette. The provisions relating to labelling of liquors would take effect 12 months after the commencement of the Regulation, to allow time for importers and local manufacturers to make the necessary preparations.

26. The Legal Adviser pointed out that according to the LegCo Brief, the Administration had consulted the major liquor trade associations and the major traders on the Regulation and received their general support. The Legal Adviser further pointed out that when the Panel on Financial Affairs was consulted on 19 July 2002, members of the Panel expressed general support for the proposal.

27. The Legal Adviser added that the Legal Services Division was seeking clarification from the Administration on certain technical matters, in particular the arrangement for the 12-month period following commencement of the Regulation when the relevant provisions relating to labelling of liquors would have not come into effect.

28. The Chairman proposed that a subcommittee be formed to study the Regulation as it was necessary to discuss the related arrangements with the Administration. Members agreed. The following Members agreed to join : Mrs Selina CHOW, Mr CHAN Kam-lam, Mr SIN Chung-kai and Mr Andrew WONG.

29. The Legal Adviser said that the remaining two items of subsidiary legislation covered in the report were the Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 2003 and Tax Reserve Certificates (Rate of Interest) (No. 2) Notice 2003. Members did not raise any queries on these two items.

30. The Chairman reminded Members that the deadline for amending these nine items of subsidiary legislation was 9 July 2003, or the first Council meeting of the next session if extended by resolution.

#### **IV. Further business for the Council meeting on 11 June 2003**

**(a) Questions**  
(*LC Paper No. CB(3) 689/02-03*)

31. The Chairman said that Mr WONG Yung-kan had revised his oral



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question and the revised wording had been issued to Members.

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

**Boundary Facilities Improvement Tax Bill**

32. The Chairman said that the above Bill would be introduced into the Council on 11 June 2003 and considered by the House Committee on 13 June 2003.

(c) **Members' motion**

**Proposed resolution to be moved by Hon IP Kwok-him under section 34(4) of the Interpretation and General Clauses Ordinance relating to the Fire Services (Fire Hazard Abatement) Regulation.**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 695/02-03 dated 3 June 2003.)

33. The Chairman said that Mr IP Kwok-him, Chairman of the Subcommittee on the Fire Services (Fire Hazard Abatement) Regulation, had given notice to move a motion to extend the scrutiny period of the Regulation to 2 July 2003. The Chairman added that Mr IP would make a verbal report under agenda item VII(d) below.

**V. Business for the Council meeting on 18 June 2003**

(a) **Questions**

(LC Paper No. CB(3) 690/02-03)

34. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 18 June 2003.

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

(i) **Adoption (Amendment) Bill 2003**

(ii) **Supplementary Appropriation (2002-2003) Bill**

35. The Chairman said that the above two Bills would be introduced into the Council on 18 June 2003 and considered by the House Committee on 20 June 2003.

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(c) **Government motions**

(i) **Proposed resolution to be moved by the Secretary for Health, Welfare and Food under the Fixed Penalty (Public Cleanliness Offences) Ordinance**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 691/02-03 dated 2 June 2003.)

*(LC Paper No. LS 123/02-03)*

*(Letter dated 3 June 2003 from the Secretary for Health, Welfare and Food)*

36. The Legal Adviser said that the Legal Service Division report covered the original motion put forward by SHWF to seek LegCo's approval to increase the fixed penalty for littering and spitting offences from \$600 to \$1,500 with effect from 26 June 2003. The Legal Adviser further said that the report did not cover the revised motion set out in SHWF's letter dated 3 June 2003, which sought to also increase the fixed penalty for fouling of street by dog faeces and display of bills and posters from \$600 to \$1,500 with effect from 26 June 2003.

37. The Chairman informed Members that the Panel on Food Safety and Environmental Hygiene had discussed the original motion at its meeting on 2 June 2003. The Panel expressed support that more stringent actions should be taken against public cleanliness offences, and some members suggested that the fixed penalty for fouling of street by dog faeces should also be increased. The Chairman said that in his letter dated 3 June 2003, SHWF sought the House Committee's support for the Administration's request to the President for the requisite notice to be waived in respect of the revised motion.

38. Mr Michael MAK proposed that a subcommittee be formed to study the Administration's proposals. Mr MAK said that urinating in public places by dogs should also be included under the fixed penalty system. He added that he and some other Panel members had expressed concern that there would be difficulties in enforcement.

39. The Chairman advised that if a subcommittee was set up, SHWF would not be able to move his motion on the Administration's proposals at the Council meeting on 25 June 2003.

40. Mr James TIEN said that he was a member of the former Bills Committee formed to study the Fixed Penalty (Public Cleanliness Offences) Bill. Mr TIEN pointed out that Mr Michael MAK's suggestion had previously been discussed by the Bills Committee. As the increase in the fixed penalty for public cleanliness offences should come into force as early

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as possible, he suggested that Mr MAK should raise his views and concerns directly with the Administration.

41. The Legal Adviser advised that fouling of street by dog urine was not a scheduled offence under the Fixed Penalty (Public Cleanliness Offences) Ordinance. He added that Mr MAK's suggestion could not be dealt with under the motion to be moved by SHWF as it would involve the need to amend the principal Ordinance.

42. Mr IP Kwok-him said that given the wide public concern about Hong Kong's environmental hygiene, the new level of fixed penalty for public cleanliness offences should be put into effect as soon as possible. He did not support the setting up of a subcommittee.

43. Mr Andrew WONG and Mr CHAN Kwok-keung declared that they were dog owners. They pointed out that it was difficult to control dogs from urinating in public places. Mr Andrew WONG added that it was not appropriate for Mr MAK's suggestion to be pursued in the context of SHWF's motion.

44. Mr Tommy CHEUNG said that he was also a member of the former Bills Committee on the Fixed Penalty (Public Cleanliness Offences) Bill. Mr CHEUNG pointed out that the Bills Committee, which comprised Members belonging to different political groupings, was of the unanimous view that fouling of street by dog urine should not be included in the fixed penalty system. Mr CHEUNG considered that the issue should not be revisited at the present time when Members were generally in support of increasing the fixed penalty for public cleanliness offences as soon as possible.

45. Ms Audrey EU said that she was also a member of the former Bills Committee on the Fixed Penalty (Public Cleanliness Offences) Bill. Ms EU pointed out that fouling of street by dog urine was originally included in the Bill. However, during the deliberation of the Bills Committee, some dog owners had made representations to her that it was difficult to control small dogs from urinating in public places. She had therefore suggested that "dog urine" be deleted from the scheduled offences under the Bill, and her suggestion was agreed to by other members of the Bills Committee.

46. The Legal Adviser advised that while fouling of street by dog urine was not a scheduled offence under the Fixed Penalty (Public Cleanliness Offences) Ordinance, it was an offence under the Public Cleansing and Prevention of Nuisances Regulation. He further advised that prosecution action could be taken against such an offence under this Regulation by way of summons at the magistrates' courts, and the maximum penalty on conviction

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was a fine of \$5,000.

47. Mr Michael MAK explained that he had no intention to delay the coming into force of the new level of fixed penalty, and he was only concerned that the enforcement staff should be better equipped as there could be greater resistance from offenders, given the substantial increase in the fixed penalty.

48. The Chairman said that as Mr Michael MAK's concerns had been discussed by the former Bills Committee on the Fixed Penalty (Public Cleanliness Offences) Bill, it would not be appropriate to re-visit the issue in the context of SHWF's motion. The Chairman suggested that Mr MAK could seek the Secretariat's assistance in raising his concerns directly with the Administration.

49. Members did not raise objection to SHWF moving the revised motion at the Council meeting on 18 June 2003, and expressed support for SHWF's request to the President for the requisite notice to be waived.

**(ii) Proposed resolution to be moved by the Secretary for Economic Development and Labour under the Factories and Industrial Undertakings Ordinance**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 686/02-03 dated 30 May 2003.)

*(LC Paper No. LS 122/02-03)*

50. The Legal Adviser said that the proposed resolution sought to amend the Construction Sites (Safety) Regulations (CSSR), Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulation, Factories and Industrial Undertakings (Suspended Working Platforms) Regulation and Factories and Industrial Undertakings (Loadshifting Machinery) Regulation.

51. The Legal Adviser further said that the proposed resolution sought to amend the above four Regulations to hold contractors who had direct control over relevant construction work, be they principal contractors, sub-contractors or specialist contractors, responsible for the various statutory duties.

52. The Legal Adviser explained that the second aspect of the proposed amendments was to remove the technical difficulty of certain provisions of CSSR. The Legal Adviser said that the technical difficulty was in relation to the Court of the First Instance's decision that the making of Regulation 44(1) of CSSR was beyond the enabling power of section 7 of the Factories and Industrial Undertakings Ordinance.

53. The Legal Adviser said that Members might wish to form a

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subcommittee to study the proposed resolution as the amendments involved new policy.

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54. The Chairman proposed that a subcommittee be formed, and the Secretary for Economic Development and Labour be requested to withdraw his notice. Members agreed. The following Members agreed to join : Ms Cyd HO, Mr CHAN Kwok-keung, Mr Andrew CHENG (as advised by Mr SIN Chung-kai), Mr Abraham SHEK and Ms Audrey EU.

**(d) Members' motions**

- (i) Motion on "Thanks to the Central Government's support"**  
(Wording of the motion issued vide LC Paper No. CB(3) 696/02-03 dated 3 June 2003.)
- (ii) Motion on "Revitalizing tourism and encouraging spending"**  
(Wording of the motion issued vide LC Paper No. CB(3) 702/02-03 dated 6 June 2003.)

55. The Chairman said that the above motions would be moved by Mr NG Leung-sing and Mr Howard YOUNG respectively and the wording of the motions had been issued to Members.

56. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 11 June 2003.

**VI. Advance information on business for the Council meeting on 25 June 2003**

**Bills - First Reading and moving of Second Reading**

**Electronic Transactions (Amendment) Bill 2003**

57. The Chairman said that the above Bill would be introduced into the Council on 25 June 2003 and considered by the House Committee on 27 June 2003.

**VII. Report of Bills Committee and subcommittee**

- (a) Position report on Bills Committees/subcommittees**  
(LC Paper No. CB(2) 2313/02-03)

58. The Chairman said that 13 Bills Committees and ten subcommittees were in action as well as nine Bills Committees on the waiting list.

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**(b) Report of the Bills Committee on Stamp Duty (Amendment) Bill 2002**

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*(LC Paper No. CB(1) 1822/02-03)*

59. Mr SIN Chung-kai, Chairman of the Bills Committee, reported that the Bills Committee had completed its scrutiny work, and the deliberations of the Bills Committee were detailed in the report.

60. Mr SIN explained that the principal object of the Stamp Duty (Amendment) Bill 2002 was to amend the Stamp Duty Ordinance to implement a proposed electronic stamping system which would remove as far as possible the need for original instruments to be submitted to the Stamp Office for stamping. The Ordinance provided that every instrument chargeable with stamp duty would be presented to the Collector of Stamp Revenue for stamping. Mr SIN pointed out that under the current system, all documents presented to the Collector for stamping must be original instruments. However, under the proposed system, applications for stamping might be made without presenting the original instruments to the Stamp Office and stamp certificates might be issued by the Collector on line.

61. Mr SIN said that seven organisations had submitted written representations to the Bills Committee, and one of these organisations had made representations at a meeting of the Bills Committee.

62. Mr SIN further said that in scrutinising the Bill, the Bills Committee had studied various issues, including –

- (a) access to the proposed system;
- (b) need to restrict access to the proposed system to verify stamp certificates;
- (c) different modes of paying stamp duty under the proposed system including payment by credit card;
- (d) validity of stamp certificates for which stamp duty had been paid by cheques;
- (e) feasibility of using the proposed stamping system to issue stamp certificates for instruments in respect of properties that were being transferred as gifts;
- (f) power of Collector to inspect instrument of evidence;
- (g) definition of "error" in a stamp certificate; and
- (h) cancellation of Stamp Certificates.

63. Mr SIN Chung-kai informed Members that the Administration had agreed to the Bills Committee's suggestion to limit the time in which the Collector could exercise his power to require the presentation of original instruments for inspection to six years, as against an indefinite period proposed in the Bill. Mr SIN further informed Members that the

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Administration would also give a more precise definition for the term "error" in a stamp certificate.

64. Mr SIN pointed out that to address the Bills Committee's concern that the Collector could cancel a stamp certificate because of errors in the certificate, without the knowledge of the parties concerned, the Administration had agreed that the Collector would exercise his power of cancellation only upon request.

65. Mr SIN said that the Administration had undertaken to consult the securities industry before deciding whether to extend the application of the proposed system to stock transactions. The Administration had also agreed to indicate clearly which instruments were excluded from the new system when publicizing the new system.

66. Mr SIN further said that the Bills Committee supported the CSAs to be moved by the Administration and the resumption of the Second Reading debate on the Bill on 18 June 2003. Mr SIN added that the Bills Committee would not move any CSAs.

67. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 18 June 2003. The Chairman reminded Members that the deadline for giving notice of CSAs was 9 June 2003.

68. The Chairman said that as there was a vacant slot, the Bills Committee on Construction Industry Levy (Miscellaneous Amendments) Bill 2003 could commence work.

**(c) Report of the Bills Committee on Telecommunications (Amendment) Bill 2002**  

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*(LC Paper No. CB(1) 1858/02-03)*

69. The Chairman referred Members to the Administration's note and a letter signed by five major telecommunications operators, which had just been received and tabled at the meeting.

70. Mr SIN Chung-kai, Chairman of the Bills Committee, said that he would first report the deliberations of the Bills Committee and then explain the latest developments after the Bills Committee had held its last meeting on 23 May 2003.

71. Mr SIN said that the Bills Committee had held a total of 12 meetings, including three meetings to listen to views of the telecommunications industry and other organisations. Mr SIN further said that the Bills Committee had in-depth discussion on a number of controversial issues, such as the regulatory role of Telecommunications Authority (TA) in merger and acquisition (M&A)



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activities in the telecommunications sector, the checks and balance on TA's powers and the key aspects of the "Guidelines on the Competition Analysis of Mergers and Acquisitions in Telecommunications Markets".

72. Mr SIN pointed out that the Bills Committee had attached great importance to the M&A Guidelines, as they would set out the factors which TA would take into consideration in assessing the competition effect of M&A in the telecommunications market. The Administration had undertaken to brief the Panel on Information Technology and Broadcasting (ITB Panel) on the outcome of consultation with the industry on the draft Guidelines before they were issued. Mr SIN added that as the commencement notice of the Bill was subsidiary legislation subject to negative vetting by LegCo, the Bills Committee had agreed that a subcommittee could be formed, when the commencement notice was gazetted, to pursue any issues relating to the M&A Guidelines before the substantive provisions in the Bill relating to the regulation of M&As were to come into operation.

73. Mr SIN informed Members that the Administration had proposed a number of CSAs to the Bill in response to concerns raised by members and deputations. Mr SIN said that while some members of the Bills Committee had expressed reservations about the introduction of the Bill as the telecommunications industry was going through a difficult time, the Bills Committee had not raised objection, at its meeting on 23 May 2003, to the resumption of the Second Reading debate on the Bill on 18 June 2003.

74. Mr SIN further informed Members that although the telecommunications operators had presented divergent views to the Bills Committee at the earlier stage of deliberation, the eight major telecommunications operators had recently reached a unified view and presented a joint proposal to the Bills Committee at its last meeting on 23 May 2003. The Administration had provided a verbal response to the joint proposal at that meeting. Mr SIN added that at the request of the telecommunications industry, he was now drafting some CSAs on the basis of the latest proposal put forward by the telecommunications industry. Given the complexity of the issue and the fact that the Bills Committee and the Administration had not yet had the opportunity to consider his proposed CSAs, he had just scheduled a further meeting of the Bills Committee for 9 June 2003 at 3:30 pm, immediately after the meeting of ITB Panel. While he understood that it was uncommon for a Bills Committee to consider new CSAs after reporting to the House Committee, he hoped that Members would agree to request the Administration to defer resuming the Second Reading debate on the Bill on 18 June 2003. Mr SIN stressed that the regulation of M&A activities had far-reaching consequences on the operation and development of the industry, and the matter had to be considered very carefully.

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75. Mr James TIEN said that he was not a member of the Bills Committee, but the eight major telecommunications operators had approached him on the proposals in the Bill. Mr TIEN further said that he supported Mr SIN's suggestion of requesting the Administration to defer the resumption of the Second Reading debate on the Bill, as these major operators were strongly against the proposed M&A regulatory framework. Mr TIEN added that it was necessary for the Bills Committee to discuss Mr SIN's proposed CSAs as, according to the Administration's note tabled at the meeting, these CSAs were tantamount to nearly rewriting the Bill. However, Mr TIEN wondered whether the matter could be resolved by holding one more meeting, having regard to the fact that the Bills Committee had already spent a long time to examine the Bill and listen to the views of the telecommunications industry,

76. Mr Eric LI declared that he was a member of the board of directors of SmarTone Mobile Communications Limited. Mr LI said that although he was not aware of the current action being taken by the company, he fully understood the views of the telecommunications industry on the Bill. He further said that during the Bills Committee's deliberations, he had expressed reservations about the introduction of the Bill. Mr LI pointed out that there was no urgency for the Bill to be passed, as it was unlikely that there would be any M&A activities in the near future, given the difficult business environment of the industry.

77. Mr Eric LI said that the Administration's arguments set out in its note were unfair to the telecommunications industry. Mr LI further said that while the Bills Committee would not need to further deliberate on the policy aspects, it was necessary for members to carefully examine the legal and drafting aspects of the industry's latest proposal. Mr LI pointed out that the Administration's conclusion that the CSAs had been discussed properly by the Bills Committee was not accurate. Mr LI considered that a further meeting of the Bills Committee necessary for members to consider whether Mr SIN's CSAs should be supported. He suggested that the Bills Committee could make a further report to the House Committee after the meeting on 9 June 2003.

78. Ms Emily LAU said that she was a member of the Bills Committee and she had met with the industry recently to discuss its latest proposal. Ms LAU further said that the Bills Committee had already spent a long time to examine the Bill and had held three rounds of consultation to listen to the deputations' views. She personally had also met with representatives of the industry several times, and the industry remained opposed to the Administration's proposal. Ms LAU said that as she would not be able to attend the further meeting of the Bills Committee on 9 June 2003 due to other commitments, she hoped that the draft CSAs would be ready before the meeting. She expressed

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concern about considering substantial amendments to the Bill at such a late stage.

79. Ms LAU said that she personally considered that the Bill should be passed before the end of this session. She further said that although she was in favour of the introduction of a general competition law instead of a sector-specific legislation to deal with M&A, it was very important to put in place measures to safeguard fair competition and consumers' interest.

80. Ms Emily LAU said that she had reservations about deferring the date of resumption of the Second Reading debate on the Bill. She enquired about the view of Members belonging to the Democratic Party (DP) on the matter.

81. Dr YEUNG Sum responded that Members belonging to DP supported the passage of the Bill within the current session. However, as there were new issues that needed to be considered, it was reasonable for the Bills Committee to convene a further meeting to examine these issues.

82. The Chairman advised that there were still three more Council meetings after 18 June 2003 and before the end of the current session. The resumption of the Second Reading debate on the Bill could take place at any one of these three meetings.

83. The Chairman said that the Bills Committee should make a further report to the House Committee, and the Administration should defer the resumption on the Second Reading debate on the Bill. Members agreed

**(d) Report of the Subcommittee on Fire Services (Fire Hazard Abatement) Regulation**

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84. Mr IP Kwok-him, Chairman of the Subcommittee, said that the Subcommittee had held two meetings and had basically completed scrutiny of the Regulation. The Administration was now considering certain drafting issues raised by the legal adviser.

85. Mr IP further said that to allow more time for the Subcommittee to conclude its work and then report to the House Committee, he would move a motion on behalf of the Subcommittee at the Council meeting on 11 June 2003 to extend the scrutiny period to 2 July 2003.

86. Mr IP Kwok-him further said that the Bills Committee on the Fire Services (Amendment) Bill 2001 had previously discussed the policy aspects of the Regulation. He was the only member of the Bills Committee who had joined the Subcommittee. Mr IP pointed out that it would have helped the Subcommittee's work had some other members of the Bills Committee also participated in the scrutiny of the Regulation. Mr IP hoped that in future,

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Members who had participated in the scrutiny of a bill would also join the subcommittee formed to study the relevant subsidiary legislation. Mr LAU Ping-cheung shared Mr IP's views.

(e) **First report of the Subcommittee on subsidiary legislation relating to District Councils election gazetted on 16 May 2003**  
(LC Paper No. CB(2) 2317/02-03)

87. Mr IP Kwok-him, Chairman of the Subcommittee, said that the Subcommittee had completed its scrutiny of the District Councils (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2003, and Declaration of Constituencies (District Councils) Order 2003.

88. Mr IP said that the Administration would move some technical amendments to the proposed new section 7(5) of the District Councils (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2003 at the Council meeting on 18 June 2003, and the Administration had just provided the wording of the proposed amendments for the Subcommittee's consideration. As regards the Declaration of Constituencies (District Councils) Order 2003, members of the Subcommittee agreed that the independence of Electoral Affairs Commission (EAC) should be respected and LegCo should not interfere with the recommendations of the EAC on the delineation of constituency areas. Nevertheless, members had requested the Administration to explain how the public consultation exercise on demarcation of constituency boundaries in respect of the 2003 District Councils election was conducted and how EAC had drawn up its final recommendations. The Administration had agreed to reflect members' views on the consultation process to EAC for consideration.

89. Mr IP further said that as the Subcommittee was still scrutinizing the remaining item of subsidiary legislation, i.e. the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2003, he would move a motion, on behalf of the Subcommittee, at the Council meeting on 18 June 2003 to extend the scrutiny period of the Regulation to 9 July 2003. Mr IP added that it would submit a further report to the House Committee after it had completed scrutiny of this set of Regulation.

**VIII. Any other business**

**Demonstration of the new chime of the division bell for summoning Members to form a quorum**

90. The Chairman said that a new chime had been installed for summoning Members, during a Council meeting, to form a quorum. To familiarize

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Members with the new chime, a demonstration was held.

91. There being no other business, the meeting ended at 5:35 pm.

Council Business Division 2  
Legislative Council Secretariat  
12 June 2003