

Extract of the minutes of the House Committee meeting on 23 May 2003

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Members present :

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

Hon Fred LI Wah-ming, JP (Deputy Chairman)

Hon Kenneth TING Woo-shou, JP

Hon James TIEN Pei-chun, GBS, JP

Dr Hon David CHU Yu-lin, JP

Hon Cyd HO Sau-lan

Ir Dr Hon Raymond HO Chung-tai, JP

Hon LEE Cheuk-yan

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 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 Kong-wah

Hon LAU Wong-fat, GBS, JP

Hon Miriam LAU Kin-yee, JP

Hon Ambrose LAU Hon-chuen, GBS, 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 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 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 Albert HO Chun-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon CHAN Yuen-han, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon LAU Chin-shek, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP

Clerk in attendance :

Mrs Justina LAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mr LAW Kam-sang, JP	Deputy Secretary General
Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1

Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Vivian KAM	Principal Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Ms Bernice WONG	Assistant Legal Adviser 1
Miss Anita HO	Assistant Legal Adviser 2
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Betty MA	Senior Assistant Secretary (2)1

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I. Confirmation of the minutes of the 25th meeting held on 16 May 2003
(*LC Paper No. CB(2) 2118/02-03*)

The minutes were confirmed.

II. Matters arising

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

Future timetable for delivering the Policy Address and the Budget

2. The Chairman said that she had advised CS that Members would like to have a meeting with him on a date earlier than 6 June 2003. CS had confirmed that he would not be able to meet with Members on 23 May 2003, but he could do so on 30 May 2003.

3. The Chairman further said that if the meeting with CS was to be held on 30 May 2003, it would have to start at 4:30 pm, after the Finance Committee meeting scheduled for that day, while the regular meeting of the House Committee would be held around 6:00 pm. The Chairman added that if the meeting with CS was to be held on 6 June 2003, it could start at 2:30 pm, to be followed by the regular meeting of the House Committee at 4:00 pm.

4. The Chairman said that Members had been consulted, by way of a questionnaire, on their preferred date of the meeting with CS. The outcome of consultation was 29 Members preferred 6 June 2003, 21 Members preferred 30 May 2003, and nine Members found both dates acceptable. The Chairman further said that as the majority of Members preferred 6 June 2003, she would inform CS that the meeting with him would be held on 6 June 2003 from 2:30 pm to around 4:00 pm. Members agreed.

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5. As regards the topics for the meeting, the Chairman suggested that the work of Team Clean, which was headed by CS, be discussed, in addition to the future timetable for delivering the Policy Address and the Budget. Members agreed.

6. The Chairman added that if Members had any specific questions for CS, they could let her know so that the questions could be forwarded to CS before the meeting.

Proposed arrangements for debate on the next Policy Address

7. The Chairman said that the Director of Administration (D of Adm) had confirmed that he had been advised of the arrangements agreed to by the House Committee. D of Adm had pointed out that arrangements regarding the Progress Report and the Policy Agenda would have to be considered and determined by the Administration. As for the other arrangements, the Administration had no objection.

Use of English at meetings

8. The Chairman said that CS had enquired whether there was any progress on his suggestion regarding the use of English at meetings. She had advised CS that individual committee chairman would decide whether or not to conduct meetings in English. The Secretary General had also informed CS that the President had decided to conduct Council meetings in the present manner.

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) Town Planning (Amendment) Bill 2003
(LC Paper No. LS 109/02-03)

9. The Legal Adviser said that the Bill sought to amend the Town Planning Ordinance to streamline the town planning process with a view to enhancing public involvement in the town planning process and strengthening the enforcement powers in respect of unauthorized developments.

10. The Legal Adviser further said that the Town Planning (Amendment) Bill 2000 was introduced into the Legislative Council (LegCo) in 2000 to propose comprehensive reforms to the town planning process and a Bills Committee was formed to examine the Bill. However, because of the complex issues involved, the Bills Committee was not able to complete

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scrutiny of that Bill within that LegCo session and the Bills Committee was dissolved. The Administration had now introduced the Town Planning (Amendment) Bill 2003 to put forward those amendments which the Administration considered as having general consensus and to be of immediate benefit to society.

11. The Legal Adviser pointed out that Members were briefed on the proposed amendments to the Ordinance at the meeting of the Panel on Planning, Lands and Works on 6 December 2002. He added that whilst Panel members supported the general direction of the proposed amendments to streamline the town planning process, some members expressed concern over a number of issues.

12. The Chairman proposed that a Bills Committee be formed as the Bill introduced important changes to the town planning process. Members agreed. The following Members agreed to join : Ms Cyd HO, Mr Andrew WONG, Mr LAU Wong-fat, Dr TANG Siu-tong, Mr WONG Sing-chi (as advised by Mr James TO), Mr IP Kwok-him and Mr LAU Ping-cheung.

13. The Chairman added that the Bills Committee would be placed on the waiting list.

(ii) Public Officers Pay Adjustments (2004/2005) Bill
(*LC Paper No. LS 111/02-03*)

14. The Legal Adviser said that the Bill sought to adjust the pay of and the amounts of allowances payable to public officers by reducing them to the level they were at, in dollar terms, on 30 June 1997.

15. The Legal Adviser further said that the Bill was essentially modelled on the Public Officers Pay Adjustment Ordinance enacted in 2002, i.e. it did not apply to judicial officers, as well as officers on delinked starting salaries appointed or promoted before 26 February 2003.

16. The Legal Adviser pointed out that there were a number of judicial review cases before the court regarding the lawfulness of the Public Officers Pay Adjustment Ordinance. He informed Members that in moving the Second Reading of the Bill, the Secretary for the Civil Service had stated that the Administration would defer resumption of the Second Reading debate on the Bill until after the delivery of the judgment of the Court of First Instance.

17. The Legal Adviser added that in view of the controversial issues involved in the Bill, Members might wish to form a Bills Committee to study the Bill in detail.

18. Miss Margaret NG said that it was not appropriate for Members to

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commence scrutiny of the Bill, given that the pending court judgment might have implications on the Bill. Miss NG further said that even after the Court of First Instance had delivered its judgment, there was still the question of the lodging of appeals.

19. The Legal Adviser said that it was in order for Members to consider forming a Bills Committee to study the Bill at this meeting. The Bills Committee, if formed, would be placed on the waiting list. The Chairman pointed out that the Bills Committee, if formed, would be eighth on the waiting list, and it would be some time before it could be activated.

20. Miss Margaret NG said that she had no objection to the House Committee taking a decision at this meeting on the forming of a Bills Committee. However, Miss NG considered that in order not to waste the Council's time, the Bills Committee should not commence work, pending the delivery of the judgment of the Court of First Instance and the expiry of the time for lodging appeals. Miss NG asked the Secretariat to remind the House Committee of this when the time came for the Bills Committee on the Bill to be activated.

21. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Ms Cyd HO, Ir Dr Raymond HO, Miss Margaret NG, Mrs Selina CHOW, Mr CHEUNG Man-kwong (as advised by Dr YEUNG Sum), Mr HUI Cheung-ching, Mr Andrew WONG, Mr TAM Yiu-chung (as advised by Mr IP Kwok-him), Ms LI Fung-ying, Mr Michael MAK, Mr LEUNG Fu-wah and Ms Audrey EU.

22. The Chairman added that the Bills Committee would be placed on the waiting list.

(iii) United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003

(LC Paper No. LS 107/02-03)

23. The Legal Adviser explained that the Bill sought to amend the United Nations (Anti-Terrorism Measures) Ordinance to give effect to the outstanding obligations of freezing property other than funds under the United Nations Security Council Resolution 1373 and the Special Recommendations of the Financial Action Task Force on Money Laundering. The Legal Adviser further explained that the Bill also sought to give effect to jurisdictional requirements in relation to offences under the Bombings Convention, the Maritime Safety Convention and the Protocol, and to make other amendments to the Ordinance as discussed previously by the Bills Committee on the United Nations (Anti-Terrorism Measures) Bill.

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24. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join : Ms Cyd HO, Miss Margaret NG, Mr James TO, Mr LAU Kong-wah (as advised by Mr IP Kwok-him), Ms Miriam LAU and Ms Audrey EU.
25. The Chairman added that the Bills Committee would be placed on the waiting list.
- (b) Legal Service Division report on subsidiary legislation gazetted on 16 May 2003 and tabled in Council on 21 May 2003**
(LC Paper No. LS 112/02-03)
26. The Legal Adviser said that 11 items of subsidiary legislation were gazetted on 16 May 2003 and tabled in Council on 21 May 2003.
27. The Legal Adviser explained that the Legislative Council (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2003 provided that election deposits would be returned in respect of candidates who had received 3% (instead of 5% at present) or more of the total number of valid votes cast. The Regulation also set a ceiling of 100 persons and 200 persons respectively on the number of subscribers for nominations papers for a geographical constituency and a functional constituency. The Legal Adviser added that the Regulation would come into operation on 1 June 2004.
28. The Legal Adviser further explained that the District Councils (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2003 provided that a nomination should be subscribed by 10 persons and in any event not more than 20 persons. The Legal Adviser informed Members that the Regulation would come into operation on 1 September 2004.
29. The Legal Adviser said that when consulted by the Administration, the Panel on Constitutional Affairs did not raise any objection to these proposals. He added that the Legal Service Division was seeking clarification with the Administration on some drafting points and would provide a further report if necessary.
30. On the Declaration of Constituencies (District Councils) Order 2003, the Legal Adviser explained that the Order declared the boundaries and names of the constituencies within each District Council (DC) district to enable arrangements to be made for the coming DC ordinary election in 2003. The Legal Adviser said that on 6 January 2003, the Electoral Affairs Commission (EAC) had published its preliminary delineation proposals for public consultation for one month. The Legal Adviser pointed out that the Chairman of the Pik Shui Sun Tsuen Mutual Aid Committee and the Village Representatives of Tai Po Tsai Village had written to the Chairman of the House Committee on 21 May 2003 opposing to Pik Shui Sun Tsuen and Tai Po

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Tsai being transferred from Hang Hau East constituency to Hang Hau West constituency.

31. The Legal Adviser further explained that the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2003 introduced changes to electoral arrangements for DCs, such as the counting of votes at each individual polling station. The Legal Adviser pointed out that the Administration briefed the Panel on Constitutional Affairs on the 2003 DC ordinary election at its meetings on 20 January and 24 April 2003. He added that the Legal Service Division was still scrutinising the detailed provisions and would make a further report should problems be detected.

32. Mr Andrew WONG said that a subcommittee should be set up to examine the three items of subsidiary legislation relating to DC elections. Mr WONG pointed out that in the preliminary delineation proposals issued for consultation by EAC, Pik Shui Sun Tsuen and Tai Po Tsai were located in Hang Hau East constituency area. However, they were subsequently transferred to Hang Hau West constituency after certain representations were considered by EAC. Mr WONG said that as the residents of Pik Shui Sun Tsuen and Tai Po Tsai only knew about the transfer when EAC published its recommended DC constituency areas after the consultation period, they were not able to voice their objection to the transfer. Mr WONG considered that a subcommittee should be set up to listen to the views of the residents.

33. Mr IP Kwok-him said that he had also received views and complaints about the delineation proposals. Mr IP asked whether it was still possible to give views on delineation of the constituency areas given that the consultation period had already expired, and whether LegCo could make amendments to the constituency areas declared in the Order.

34. The Legal Adviser explained that as the Order was subsidiary legislation subject to the negative vetting procedure of LegCo, Members could, under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1), propose amendments to the Order before the expiry of the scrutiny period. The Legal Adviser pointed out that given the independent status of EAC, Members had always exercised great caution in considering any requests for changes to the delineation of constituency areas. He added that as far as he could recall, the Council had never proposed amendments to the constituency areas recommended by EAC.

35. Dr YEUNG Sum said that LegCo had always respected the independence of EAC and refrained from interfering with EAC's recommendations on the delineation of constituency areas. Dr YEUNG pointed out that as any changes to the delineation of one constituency area would affect that of another constituency area, Members must exercise great

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caution in considering any proposals for changes.

36. Mr Andrew WONG said that he agreed that LegCo should not interfere with the delineation of constituency areas recommended by EAC. In fact, he himself had always reminded other Members of this important principle. However, the case of Pik Shui Sun Tsuen and Tai Po Tsai showed that there might be problems with the present arrangements. Mr WONG pointed out that the residents concerned were not aware that they had been transferred to another constituency area until after the consultation period had expired; hence it was not possible for them to make representation to EAC. Mr WONG said that the subcommittee, if set up, should look at whether there were problems with the present arrangements and, if so, how it could be improved to avoid recurrence of similar incidents in the future.

37. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join : Ms Cyd HO, Mr HUI Cheung-ching, Mr Andrew WONG, Dr YEUNG Sum, Mr Howard YOUNG (as advised by the Chairman) and Mr IP Kwok-him.

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