

立法會
Legislative Council

LC Paper No. CB(2) 181/03-04

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 3rd meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 24 October 2003**

Members present :

Hon Miriam LAU Kin-yee, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Cyd HO Sau-lan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon Eric LI Ka-cheung, GBS, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung, JP
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBS, 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
Dr Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, 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, JP
Hon WONG Sing-chi
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent :

Hon Kenneth TING Woo-shou, JP
Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Chin-shek, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon TANG Siu-tong, JP
Hon Henry WU King-cheong, BBS, JP
Hon Frederick FUNG Kin-kee
Hon LAU Ping-cheung
Hon MA Fung-kwok, 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
Miss Connie FUNG	Assistant Legal Adviser 3
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Lolita SHEK	Senior Assistant Secretary (2)7

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I. Confirmation of the minutes of the 2nd meeting held on 17 October 2003

(LC Paper No. CB(2) 131/03-04)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that she had explained to CS the proposed arrangements for the debate on the next Policy Address, in particular the speaking time for a debate session involving two designated public officers. The Chairman further said that she had also informed CS that while Members noted that the timing and format for presenting the Progress Report and Policy Agenda would be decided by the Administration, they hoped that the arrangements would not cause inconvenience to them. The Chairman added that she had written to CS on the package of arrangements agreed to by Members.

3. The Chairman further said that she had advised CS that Dr LAW Chi-kong would move a motion on 29 October 2003 on the appointment of a select committee to inquire into the handling of the Severe Acute Respiratory Syndrome (SARS) outbreak by the Government and the

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Hospital Authority. CS had reiterated that the Administration would give the select committee full co-operation in its work.

III. Business arising from previous Council meetings

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

Road Traffic (Amendment) Bill 2003
(LC Paper No. LS 3/03-04)

4. The Legal Adviser explained that the Bill proposed to increase the maximum gross vehicle weight of a light bus from 4.0 tonnes to 5.5 tonnes to allow for the installation of new passenger protection equipment. The Legal Adviser further explained that the Bill also proposed to transfer the statutory power now vested in CS to appoint Transport Tribunals and members into a Transport Tribunals' panel under sections 16 and 17 of the Road Traffic Ordinance (Cap. 374) to the Secretary for the Environment, Transport and Works (SETW). According to the Legislative Council (LegCo) Brief on the Bill, the transfer of power would enable SETW to assume full responsibility and authority in managing her statutory functions and policy portfolios after the implementation of the accountability system for principal officials.

5. The Legal Adviser said that the Panel on Transport and Panel on Environmental Affairs had been consulted on the proposed increase in the maximum gross vehicle weight limit of light buses.

6. The Legal Adviser further said that the Panel on Constitutional Affairs (CA Panel) had not been briefed specifically on the transfer of power proposed in the Bill. The CA Panel had discussed the Administration's Twelve-month Report on Implementation of the Accountability System for Principal Officials and noted that a review had been completed on whether those statutory power and functions currently vested in CS and the Financial Secretary (FS) should be transferred to the relevant Directors of Bureaux.

7. The Legal Adviser informed Members that if the Bill was passed, the increase in maximum gross vehicle weight of light buses would come into operation on a day to be appointed by SETW by notice published in the Gazette. As regards the transfer of CS's power to SETW, it would

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come into operation on the day on which the Bill, after having been enacted, was published in the Gazette.

8. Miss Margaret NG expressed concern about the proposed transfer of power to SETW. She said that the current accountability system for principal officials did not really require the principal officials to be accountable for their decisions. She pointed out that if SETW would appoint only those people who had good relationship with the Government to the Transport Tribunals and the Tribunals' panel, this would undermine the independence and credibility of such tribunals, and could lead to more applications for judicial review of the tribunals' decisions.

9. Mr Andrew WONG said that it would be more appropriate for the Administration to provide a comprehensive proposal, following the recent review, on the transfer of statutory powers from CS and FS to the relevant Directors of Bureaux. Mr WONG further said that he had reservations about the proposed transfer of power from CS to SETW. He was of the view that appointments to the Transport Tribunals and the Tribunals' panel should be made either by CS, or the Commissioner for Transport, who was not a political appointee.

10. Miss Margaret NG said that Members could consider moving Committee Stage amendments to delete the relevant clauses from the Bill. However, before Members decided to do so, the Administration should be given an opportunity to explain its proposal and a Bills Committee would then be necessary. Mr Andrew WONG suggested that a Bills Committee be formed to study the Bill.

11. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join: Miss Margaret NG, Mr Andrew WONG and Ms Miriam LAU.

12. The Chairman said that the Bills Committee would be placed on the waiting list.

(b) **Legal Service Division report on subsidiary legislation gazetted on 17 October 2003 and tabled in Council on 22 October 2003**
(*LC Paper No. LS 7/03-04*)

13. The Legal Adviser said that there were three items of subsidiary legislation gazetted on 17 October 2003 and tabled in Council on 22

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October 2003. He added that no difficulties had been observed in the drafting or legal aspects of the three items of subsidiary legislation.

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

15. The Chairman informed Members that the deadline for amending these items of subsidiary legislation was Wednesday, 19 November 2003, or Wednesday, 10 December 2003, if extended by resolution.

IV. Further business for the Council meeting on 29 October 2003

(a) Questions

(LC Paper No. CB(3) 81/03-04)

16. The Chairman informed Members that Miss CHOY So-yuk had replaced her previous oral question.

(b) Members' motion

Motion on "Appointment of a select committee"

(Wording of the motion issued vide LC Paper No. CB(3) 80/03-04 dated 20 October 2003.)

17. The Chairman said that as agreed at the last meeting, Dr LAW Chi-kwong, Chairman of the Subcommittee to prepare for the appointment of the Select Committee to inquire into the handling of the SARS outbreak by the Government and the Hospital Authority, would move the above motion at the Council meeting on 29 October 2003.

18. The Chairman reminded Members that the speaking time limit was 15 minutes for each Member speaking at the debate.

V. Business for the Council meeting on 5 November 2003

(a) Questions

(LC Paper No. CB(3) 82/03-04)

19. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 5 November 2003. She added

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that Mr Abraham SHEK had replaced his previous oral question. Ms Emily LAU said that she would also replace her oral question.

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

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

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

Revenue (No. 3) Bill 2003

21. The Chairman said that at the House Committee meeting on 3 October 2003, Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(d) **Government motion**

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

(e) **Members' motions**

(i) **Motion on "Combating the problem of Mainlanders engaging in illegal employment and prostitution in Hong Kong"**

(Wording of the motion issued vide LC Paper No. CB(3) 87/03-04 dated 24 October 2003.)

(ii) **Motion on "Regulating health foods"**

(Wording of the motion issued vide LC Paper No. CB(3) 85/03-04 dated 22 October 2003.)

23. The Chairman said that the above motions would be moved by Mr YEUNG Yiu-chung and Mr WONG Yung-kan respectively, and the wording of their motions had been issued to Members.

24. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 29 October 2003.

VI. Report of Bills Committee and subcommittees

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(a) Report of the Subcommittee on subsidiary legislation relating to consular matters

(LC Paper No. CB(2) 144/03-04)

25. Miss Margaret NG, Chairman of the Subcommittee, said that the Subcommittee had found that the four items of subsidiary legislation were not contentious in nature. Nevertheless, the Subcommittee had sought clarifications from the Administration on the existing framework to underpin, through enactment of local legislation, the relevant provisions of international bilateral agreements between the People's Republic of China and foreign States and International Organizations that were applied to Hong Kong to deal with privileges and immunities. According to the Administration, further items of subsidiary legislation to cover such bilateral agreements would be tabled in LegCo in batches as soon as the necessary drafting had been completed.

26. Miss NG said that the Subcommittee was in support of the four items of subsidiary legislation.

27. The Chairman said that the scrutiny period for the subsidiary legislation had been extended to 5 November 2003, and the deadline for giving notice of amendments was Wednesday, 29 October 2003.

(b) Report of the Subcommittee on Statutes of the University of Hong Kong (Amendment) (No. 2) Statutes 2003

(LC Paper No. CB(2) 147/03-04)

28. Mr Tommy CHEUNG, Chairman of the Subcommittee, said that in July 2002, the Council of the University of Hong Kong (HKU Council) appointed an independent and international panel of external experts to undertake a review of the fitness for purpose of HKU's governance and management structures. Recommendation 2 of the review report that "no student or staff member shall serve on the Council whilst an office holder of the Students' Union or Staff Associations respectively" had caused concern among some staff members and students of HKU. The HKU Council intended to implement Recommendation 2 by including such provision in the administrative regulations for elections to the HKU Council, and internal consultation on the drafting of the regulations was still in progress.

29. Mr CHEUNG further said that the Subcommittee considered that as the internal consultation process within HKU was still continuing, the HKU Council should further consult staff members and students with a

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view to smoothing out their residual differences over the issue. Professor TSUI Lap-chee, the Vice-Chancellor of HKU and chairman of the Implementation Working Party, had undertaken to convey the views of the Subcommittee to the HKU Council for its consideration.

30. Mr CHEUNG informed Members that the Administration intended to move a motion to amend paragraph 2(1) of the amended Statute XIX at the Council meeting on 5 November 2003 to clearly reflect the intention of the revisions introduced in the said paragraph. The Subcommittee supported the proposed amendment.

31. The Chairman said that the scrutiny period for the subsidiary legislation had been extended to 5 November 2003, and the deadline for giving notice of amendments was Wednesday, 29 October 2003.

VII. Position on Bills Committees/subcommittees

(LC Paper No. CB(2) 143/03-04)

(Letter dated 22 October 2003 from the Secretary for Financial Services and the Treasury on "The Boundary Facilities Improvement Tax Bill")

32. The Chairman informed Members that there were 15 Bills Committees and two subcommittees in action, as well as five Bills Committees on the waiting list, including the Bills Committee on Road Traffic (Amendment) Bill 2003 formed under agenda item III.

33. Mr CHAN Kam-lam, Chairman of the Bills Committee on the Boundary Facilities Improvement Tax Bill, said that FS had announced, in his statement on Hong Kong's economy and the management of public finances made at the Council meeting on 22 October 2003, the Government's decision of not proceeding further with the Boundary Facilities Improvement Tax Bill in the current term. The Secretary for Financial Services and the Treasury (SFST) had also explained this decision to the Bills Committee in his letter dated 22 October 2003.

34. Mr CHAN Kam-lam further said that SFST's letter had been circulated to members of the Bills Committee and no comments had been received from them. Mr CHAN recommended that the Bills Committee should discontinue its work on the Bill.

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35. The Chairman proposed that the Bills Committee be dissolved and the slot allocated to the Bills Committee on Inland Revenue (Amendment) Bill 2000 which had been holding its work in abeyance pending the Administration's response. The Chairman said that the Administration had advised that it was now ready to resume discussion with the Bills Committee on the Bill. Members agreed.

VIII. Vacancy in the Committee on Rules of Procedure

(LC Paper No. CROP 5/03-04)

36. Mr Jasper TSANG, Chairman of the Committee on Rules of Procedure, said that Ms Miriam LAU had resigned from the Committee. Members agreed that a Member should be elected at the next House Committee meeting on 31 October 2003 for appointment by the President to fill the vacancy.

IX. Any other business

37. There being no other business, the meeting ended at 2:55 pm.

Council Business Division 2
Legislative Council Secretariat
29 October 2003