

立法會
Legislative Council

LC Paper No. CB(2) 720/03-04

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 10th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 12 December 2003**

Members present :

Hon Miriam LAU Kin-ye, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, 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 Eric LI Ka-cheung, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
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 LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon LAU Wong-fat, GBS, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
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, JP
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

Members absent :

Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon LAU Chin-shek, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon LAW Chi-kwong, JP
Hon Abraham SHEK Lai-him, JP
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee

Clerk in attendance :

Mrs Justina LAM	Clerk to the House Committee
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Staff in attendance :

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

Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
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 Anita HO	Assistant Legal Adviser 2
Ms Connie FUNG	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Lolita SHEK	Senior Assistant Secretary (2)7

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I. Confirmation of the minutes of the 9th meeting held on 5 December 2003
(LC Paper No. CB(2) 582/03-04)

The minutes were confirmed.

II. Matters arising

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

Attendance by CS at House Committee meetings

2. The Chairman said that she had enquired when CS would attend House Committee meetings again and had mentioned that CS might wish to brief Members on the developments after the implementation of the Mainland and Hong Kong Closer Economic Partnership Arrangement. The Chairman further said that she had suggested that CS might consider meeting with the House Committee on 30 January, 13 February or 27 February 2004, when the meetings were not preceded by a Finance Committee meeting. Acting CS had undertaken to relay the request to CS.

Progress of scrutiny of bills

3. The Chairman further said that she had pointed out to Acting CS that as some of the bills being studied were very complicated, scrutiny work was likely to take a long time. The Chairman had also pointed out that the Administration sometimes presented bills while consultation with the public and the organisations concerned was still incomplete. She had cited the Land Titles Bill, Construction Workers Registration Bill and Companies (Corporate Rescue) Bill as examples. She had added that she was worried that when the media raised concern about the slow progress of bills, the Administration would blame it on the Legislative Council (LegCo).

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4. The Chairman said that the Director of Administration had commented that the Administration was aware of the slow progress in the scrutiny of some of the bills, and that was why there were fewer bills in the current session's legislative programme.

5. Miss Margaret NG pointed out that scrutiny of a bill was sometimes made difficult by problems with the drafting aspect of the bill. Miss NG considered that such problems were often the result of insufficient time for drafting work, and drafting instructions which were based on policies not well thought-out. Miss NG suggested that the Administration should look into the problem.

III. Business arising from previous Council meetings

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

(a) Bankruptcy (Amendment) Bill 2003
(LC Paper No. LS 15/03-04)

6. The Legal Adviser explained that the Bill sought to -

- (a) enable the Official Receiver (OR) to outsource bankruptcy cases to private-sector insolvency practitioners (PIPs) in specified circumstances;
- (b) revise the priority of payment of costs and charges out of a bankrupt's estate contained in section 37 of the Bankruptcy Ordinance (Cap. 6) to bring it in line with rule 179(1) of the Companies (Winding-up) Rules (Cap. 32 sub. leg. H); and
- (c) adapt certain provisions of the Bankruptcy Ordinance to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.

7. The Legal Adviser further explained that section 12 of the Bankruptcy Ordinance provided that on the making of a bankruptcy order by the court, OR would become the receiver of the bankrupt's property. The Bill sought to deal with the expanding caseload in a more cost-effective and rapid manner by providing OR with the power to appoint PIPs to handle summary cases of bankruptcy in which the value of the bankrupt's property was unlikely to exceed \$200,000, and to dispense with the need to convene a creditors' meeting.

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8. The Legal Adviser said that according to the LegCo Brief on the Bill, the Administration had conducted a public consultation exercise on the review on the role of the Official Receiver's Office in the provision of insolvency administration services in June 2002. The submissions received, including those from professional bodies, indicated general support for the proposal for outsourcing.

9. The Legal Adviser pointed out that the Panel on Financial Affairs (FA Panel) had been briefed at its meeting on 5 May 2003 on the outcome of the review, and members had raised some concerns.

10. The Legal Adviser said that since the proposals in the Bill raised certain important policy issues, Members might wish to consider setting up a Bills Committee to examine the Bill.

11. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr Eric LI, Mr HUI Cheung-ching, Mr CHAN Kam-lam, Mr Andrew WONG, Ms Miriam LAU and Ms Audrey EU.

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

(b) Clearing and Settlement Systems Bill
(*LC Paper No. LS 21/03-04*)

13. The Legal Adviser explained that the Bill sought to provide a statutory framework under which the Monetary Authority (MA) was empowered to oversee certain clearing and settlement systems for funds and securities in Hong Kong, and to provide for finality as regards transactions effected through, and proceedings within, such systems. The Legal Adviser further explained that the Bill was proposed in accordance with the recommendation of the International Monetary Fund that there should be explicit legislative provisions for oversight of clearing and settlement systems and settlement finality in Hong Kong's important payment systems.

14. The Legal Adviser said that according to the LegCo Brief on the Bill, banks, operators of clearing and settlement systems and the relevant professional bodies had been consulted. According to the Administration, there was general support of the legislative proposal from the parties consulted, and their relevant concerns had been addressed where appropriate.

15. The Legal Adviser further said that the policy aspects of the Bill had been discussed at the meeting of the FA Panel on 5 May 2003, and members had raised questions regarding the role of MA.

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16. The Legal Adviser added that as the Bill was likely to have important implications for the monetary or financial stability of Hong Kong, Members might wish to form a Bills Committee to study the Bill in detail.

17. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr Henry WU and Mr Jasper TSANG (as advised by Mr IP Kwok-him).

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

(c) **Ling Liang World-Wide Evangelistic Mission Incorporation
(Amendment) Bill 2003**
(*LC Paper No. LS 20/03-04*)

19. The Legal Adviser said that this was a Member's Bill introduced by Mr Kenneth TING. The Bill sought to incorporate The Council of Ling Liang World-Wide Evangelistic Mission Hong Kong Ling Liang Church as a body corporate to manage and operate the Hong Kong Ling Liang Church. The Bill further provided that if it was passed by LegCo, it would come into operation on 1 April 2004.

20. The Legal Adviser further said that the Bill did not raise any matter of public policy. The legal and drafting aspects of the Bill were in order. He added that there had not been any public consultation on the Bill, and no LegCo Panel had been consulted. Subject to Members' view, the Bill was ready for resumption of Second Reading debate.

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

IV. Further business for the Council meeting on 17 December 2003

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

**Employees Compensation Assistance (Miscellaneous Amendments)
Bill 2003**

22. The Chairman said that at the last House Committee meeting on 5 December 2003, Members did not raise objection to the resumption of the Second Reading debate on the Bill.

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(b) **Members' motions**

- (i) **Proposed resolution to be moved by Hon Margaret NG under section 34(4) of the Interpretation and General Clauses Ordinance relating to the Summary Disposal of Complaints (Solicitors) Rules**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 249/03-04 dated 10 December 2003.)

23. The Chairman said that Miss Margaret NG, Chairman of the Subcommittee on Summary Disposal of Complaints (Solicitors) Rules, had given notice to move a motion at the Council meeting on 17 December 2003 to extend the scrutiny period of the Rules to 14 January 2004.

24. The Chairman added that Miss NG would make a verbal report under agenda item VI(b) below.

- (ii) **Proposed resolution to be moved by Hon Cyd HO Sau-lan under section 34(2) of the Interpretation and General Clauses Ordinance relating to:**

- **Chinese Medicine Ordinance (Cap. 549) (Commencement) (No. 2) Notice 2003, published in the Gazette as Legal Notice No. 227 of 2003;**
- **Chinese Medicine (Fees) Regulation (Cap. 549 sub. leg. E) (Commencement) (No. 2) Notice 2003, published in the Gazette as Legal Notice No. 228 of 2003; and**
- **Chinese Medicines Regulation (Cap. 549 sub. leg. F) (Commencement) (No. 2) Notice 2003, published in the Gazette as Legal Notice No. 229 of 2003**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 246/03-04 dated 9 December 2003.)

25. The Chairman said that Ms Cyd HO, Chairman of the Subcommittee on Commencement Notices under the Chinese Medicine Ordinance, Chinese Medicine (Fees) Regulation and Chinese Medicines Regulation, had given notice to move a motion at the Council meeting on 17 December 2003 to repeal the three Commencement Notices.

26. The Chairman added that the Subcommittee would provide a written report under agenda item VI(a) below.

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V. Business for the Council meeting on 7 January 2004

The Chief Executive's Policy Address

27. The Chairman said that the Chief Executive would deliver his Policy Address at the Council meeting on 7 January 2004.

28. The Chairman further said that she would request the Administration to provide by Tuesday, 13 January 2004 the proposed grouping of policy areas for the debate on the Motion of Thanks from 4 to 6 February 2004. The House Committee would discuss the Administration's proposed grouping at its meeting on 16 January 2004.

VI. Report of Bills Committees and subcommittees

(a) Report of the Subcommittee on Commencement Notices under the Chinese Medicine Ordinance, Chinese Medicine (Fees) Regulation and Chinese Medicines Regulation

(LC Paper No. CB(2) 596/03-04)

29. The Chairman said that Ms Cyd HO, Chairman of the Subcommittee, had made a verbal report at the last House Committee meeting. A written report was now provided for Members' reference.

30. Ms Cyd HO said that the deliberations of the Subcommittee were detailed in the report. Members of the Subcommittee and some deputations held divergent views on whether the registration of proprietary Chinese medicines should commence on 19 December 2003, as provided in the Commencement Notices. Ms HO further said that she would move a motion at the Council meeting on 17 December 2003 to repeal the three Commencement Notices.

31. Ms Cyd HO further said that the Subcommittee had recommended that the Panel on Health Services should be requested to follow up with the Administration the implementation of the Chinese Medicine Ordinance and the related Regulations. Members agreed.

(b) Report of the Subcommittee on Summary Disposal of Complaints (Solicitors) Rules

32. Miss Margaret NG, Chairman of the Subcommittee, informed members that the Subcommittee had held a meeting to discuss the Summary Disposal of Complaints (Solicitors) Rules (the Rules) on 8 December 2003. To allow time for The Law Society of Hong Kong to consider the issues raised by the Subcommittee, she would move a motion at the Council meeting on 17

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December 2003 to extend the scrutiny period of the Rules to 14 January 2004.

33. The Chairman said that subject to the extension of the scrutiny period to 14 January 2004 by resolution of the Council, the deadline for giving notice of motion to amend the Rules would be 7 January 2004.

VII. Position on Bills Committees/subcommittees
(*LC Paper No. CB(2) 611/03-04*)

34. The Chairman informed Members that there were 15 Bills Committees and five subcommittees in action, as well as six Bills Committees on the waiting list, including the Bills Committee on Bankruptcy (Amendment) Bill 2003 and the Bills Committee on Clearing and Settlement Systems Bill formed under agenda items III(a) and (b) above.

VIII. Any other business

35. The Chairman reminded Members that a fire drill would be held immediately after the meeting.

36. There being no other business, the meeting ended at 2:50 pm.