

立法會
Legislative Council

LC Paper No. CB(2) 851/03-04

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 11th meeting
held in the Legislative Council Chamber
at 4:05 pm on Friday, 19 December 2003**

Members present :

Hon Miriam LAU Kin-yee, 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
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 CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung, JP
Hon CHAN Yuen-han, JP
Hon CHAN Kam-lam, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon LAU Kong-wah, 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
Dr 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
Dr Hon LO Wing-lok, JP
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 :

Ir Dr Hon Raymond HO Chung-tai, JP
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon James TO Kun-sun
Hon Bernard CHAN, JP
Hon Andrew WONG Wang-fat, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Howard YOUNG, SBS, JP
Hon LAU Chin-shek, JP
Hon LAU Wong-fat, GBS, JP
Hon LEUNG Fu-wah, MH, JP

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)
Mrs Anna LO	Principal Assistant Secretary (Administration)
Mr Watson CHAN	Head (Research and Library)
Mr Joseph KWONG	Accountant
Mr Simon WONG	Acting Chief Public Information Officer
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Lolita SHEK	Senior Assistant Secretary (2)7

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I. Confirmation of the minutes of the 10th meeting held on 12 December 2003

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

The minutes were confirmed.

II. Matters arising

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

Attendance by CS at House Committee meetings

2. The Chairman said that CS had decided to meet with the House Committee on 27 February 2004. The Chairman suggested that the special meeting with CS be held from 2:30 pm to about 4:00 pm, to be followed by the regular meeting of the House Committee. Members agreed.

3. The Chairman invited Members to give suggestions on topics to be discussed with CS. Ms Emily LAU suggested the subject of long-term accommodation for the Legislative Council (LegCo). The Chairman asked Members to let the LegCo Secretariat know if they had other suggestions on discussion topics.

Chief Executive (CE)'s Policy Address

4. The Chairman said that CS had undertaken to let LegCo have the proposed grouping of policy areas for the debate on the Motion of Thanks by 13 January 2004.

5. Ms Emily LAU enquired about the arrangements for the policy briefings by Bureau Secretaries following CE's Policy Address. Assistant Secretary General 1 (ASG1) said that a circular on the schedule of policy briefings had

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just been issued to Members. ASG1 further said that the policy briefings would be held on 9, 14, 15 and 16 January 2004 to avoid clashing with other committee meetings and the duty visit of the Panel on Food Safety and Environmental Hygiene.

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)

Waste Disposal (Amendment) (No. 2) Bill 2003
(LC Paper No. LS 26/03-04)

6. The Legal Adviser explained that the Bill sought to provide statutory basis for introducing a charging scheme for the disposal of construction waste at landfills, sorting facilities and public fill reception facilities, and to strengthen the control against illegal disposal of waste.

7. The Legal Adviser said that the Panel on Environmental Affairs had discussed the proposal to introduce a landfill charging scheme on construction and demolition waste at several of its meetings. The Panel had also invited deputations to give views on the proposal. The waste haulers were strongly opposed to the charging arrangement. The Legal Adviser further said that as the proposal was controversial, Members might wish to form a Bills Committee to study the Bill in detail.

8. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join: Miss CHOY So-yuk, Ms Miriam LAU, Ms Emily LAU, Dr LAW Chi-kwong (as advised by Mr Fred LI) and Mr Michael MAK.

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

10. Ms Emily LAU requested the LegCo Secretariat to provide the relevant report of the Public Accounts Committee on the implementation of the landfill charging scheme to the Bills Committee for reference.

(b) Legal Service Division report on subsidiary legislation gazetted on 12 December 2003 and tabled in Council on 17 December 2003
(LC Paper No. LS 27/03-04)

11. The Legal Adviser said that there were six items of subsidiary legislation gazetted on 12 December 2003 and tabled in Council on 17 December 2003.

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12. The Legal Adviser explained that the Particulars Relating to Candidates on Ballot Papers (Legislative Council) Regulation contained new provisions allowing personal photographs of candidates in LegCo elections, particulars such as the registered names and emblems of prescribed bodies, registered emblem of candidates, and the words "Independent Candidate" or "Non-affiliated Candidate" to be printed on ballot papers.

13. The Legal Adviser said that the Panel on Constitutional Affairs had been briefed on the provisions, and some members had suggested that a subcommittee should be formed to examine the Regulation after its gazettal.

14. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join: Mr HUI Cheung-ching, Mr Howard YOUNG (as advised by Mr Tommy CHEUNG) and Mr IP Kwok-him.

15. Members did not raise any queries on the other five items of subsidiary legislation.

16. The Chairman said that the deadline for amending these items of subsidiary legislation was 14 January 2004, or 4 February 2004, if extended by resolution.

IV. Chief Executive's Question and Answer Session on 8 January 2004

17. The Chairman said that CE's Question and Answer Session would start at 3:00 pm on Thursday, 8 January 2004.

V. Report of Bills Committees and subcommittees

Report of the Bills Committee on Education (Miscellaneous Amendments) Bill 2003

(LC Paper No. CB(2) 664/03-04)

18. Ms Cyd HO, Chairman of the Bills Committee, said that while the Bills Committee supported the policy of raising the professional standards of teachers, members had expressed various concerns about the transitional arrangements for permitted teachers and the membership of Appeal Boards. Ms HO further said that the Administration had agreed to move Committee Stage amendments (CSAs) to address members' concerns.

19. Ms HO added that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 14 January 2004.

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20. The Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 5 January 2004.

VI. Position on Bills Committees/subcommittees

(LC Paper No. CB(2) 745/03-04)

21. The Chairman said that there were 14 Bills Committees and six subcommittees in action, including the Subcommittee on Particulars Relating to Candidates on Ballot Papers (Legislative Council) Regulation formed under agenda item III(b) above. There were also seven Bills Committees on the waiting list, including the Bills Committee on Waste Disposal (Amendment) (No. 2) Bill 2003 formed under agenda item III(a) above.

22. The Chairman further said that as there was a vacant slot after the Bills Committee on Education (Miscellaneous Amendments) Bill 2003 had reported on its work under agenda item V above, the Bills Committee on Adoption (Amendment) Bill 2003 on the waiting list could commence work immediately.

VII. Reimbursement of operating expenses for Members of the Legislative Council

(LC Paper Nos. AS 93/03-04, CB(2) 457/03-04(02)), and CB(2) 746/03-04(01))

23. The Chairman referred Members to Ms Emily LAU's letter dated 25 November 2003 which proposed that a mechanism be established to monitor Members' use of their operating expenses reimbursements (OER) and deal with complaints in this regard. The Chairman said that as requested by Members at the meeting on 28 November 2003, the Secretariat had prepared a paper detailing the existing arrangements for processing Members' claims for OER and for handling complaints or reports about improper use of OER.

24. Referring to paragraph 12 of the paper, Ms Emily LAU said that under the existing arrangements, the Secretariat could only seek clarification from the Member concerned on an allegation of improper use of OER, and even if the expenses in question were found not to be in compliance with the Guide for Reimbursement of Operating Expenses for Members of the Legislative Council, the Member concerned would only be required to refund the excess amount claimed. Ms LAU considered that members of the public did not find the present situation satisfactory.

25. Ms LAU further said that even though the legislatures in Australia, Canada, the United Kingdom and the United States did not have a mechanism to regulate the use of allowances by Members of Parliament/Congress, LegCo should consider setting up such a mechanism. Ms LAU suggested that a subcommittee should be formed under the House Committee to consider her

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proposal of establishing a mechanism to monitor Members' use of their OER and deal with complaints in this regard. Ms LAU further suggested that the subcommittee should also consider how the situation where the allegation was already under investigation by the Independent Commission Against Corruption or the Police should be dealt with.

26. Mr Albert HO supported Ms LAU's suggestions. Mr HO said that under the Rules of Procedure, an investigation committee would only be established after a motion moved under Rule 49B(1A) had been passed by the Council. Mr HO considered it inappropriate for complaints or allegations about improper use of OER by a Member to be dealt with under such a procedure.

27. Mr Albert HO further said that as LegCo was accountable to the public, and allegations of improper use of OER by a Member would affect the credibility of LegCo, there should be a mechanism to deal with such complaints. Mr HO considered that Members should follow the high standards of conduct expected of public officers. Mr HO suggested that investigation of alleged improper use of Members' OER should be carried out by independent parties to avoid Members inquiring into the conduct of fellow Members.

28. The Chairman proposed that a subcommittee be formed under the House Committee to study whether a mechanism should be established to monitor Members' use of OER and deal with complaints in this regard. Members agreed. The following Members agreed to join: Mr Albert HO, Mr Howard YOUNG (as advised by Ms Miriam LAU), Ms Emily LAU and Mr Michael MAK. The Chairman said that the Subcommittee should provide a report on its deliberations and recommendations to the House Committee.

VIII. Proposal to invite the Chief Executive (CE) to brief the Legislative Council on his recent duty visit to Beijing and to establish a convention for CE to brief the Council upon his return from such duty visits

(Dr Hon YEUNG Sum's letter dated 16 December 2003 to the Chairman of the House Committee (LC Paper No. CB(2) 746/03-04(02))

29. Dr YEUNG Sum said that in reply to Mr SZETO Wah's oral question raised at the Council meeting on 17 December 2003, CS had said that CE would not change the present arrangement of informing the public of the details and outcome of his duty visits through the media. Dr YEUNG pointed out that according to the Basic Law, the Government of the Hong Kong Special Administrative Region (HKSAR) should be accountable to LegCo. Dr YEUNG further said that CE should properly brief Members on his duty visits and Members should not have to rely on the media to obtain such information.

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30. Dr YEUNG further said that CE should be invited to brief LegCo on his meetings with President HU Jintao and Premier WEN Jiabao during his recent duty visit to Beijing. Dr YEUNG considered that such briefings would enhance the accountability and transparency of the Administration, and also strengthen the communication between the Administration and LegCo. Dr YEUNG stressed that a convention should be established for CE to brief LegCo on his duty visits.

31. Mr Martin LEE said that it was necessary for CE to brief Members on his recent and future duty visits, given the public concern about the review on constitutional development of the HKSAR. Mr LEE further said that even Mr Bill Rammell, a British Foreign Office minister, had taken the initiative to brief Members belonging to various political groupings on his recent meetings with senior officials of the Central People's Government in Beijing and with CE.

32. Mr LEE Cheuk-yan said that in his reply to Mr SZETO Wah's question, CS had mentioned that CE could answer Members' questions about his duty visits in the Question and Answer Sessions. Mr LEE further said that such an arrangement was not satisfactory because CE's Question and Answer Sessions were held only a few times a year.

33. Mr LEE further said that after the mass procession on 1 July 2003, CE had promised that he would make changes to his governance. Mr LEE added that as head of the HKSAR Government, CE should set a good example for the Bureau Secretaries and other government officials by attending LegCo meetings more frequently.

34. Ms Emily LAU said that she supported Dr YEUNG's proposal of inviting CE to brief LegCo on his duty visits.

35. The Chairman proposed that she would write to CE to invite him to brief Members on his recent duty visit to Beijing and future duty visits. Members agreed.

IX. Any other business

36. There being no other business, the meeting ended at 4:40 pm.