

立法會  
*Legislative Council*

LC Paper No. CB(2) 1629/03-04

Ref : CB2/H/5

**House Committee of the Legislative Council**

**Minutes of the 18th meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 5 March 2004**

**Members present :**

Hon Miriam LAU Kin-yee, JP (Chairman)  
Hon Fred LI Wah-ming, JP (Deputy Chairman)  
Hon Kenneth TING Woo-shou, JP  
Hon Cyd HO Sau-lan  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, JP  
Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP  
Hon CHEUNG Man-kwong  
Hon HUI Cheung-ching, JP  
Hon CHAN Kwok-keung, JP  
Hon CHAN Yuen-han, JP  
Hon Bernard CHAN, JP  
Hon LEUNG Yiu-chung  
Hon SIN Chung-kai  
Hon Andrew WONG Wang-fat, JP  
Hon WONG Yung-kan  
Hon Howard YOUNG, SBS, JP  
Dr Hon YEUNG Sum  
Hon LAU Chin-shek, JP  
Hon LAU Kong-wah, 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  
Dr Hon TANG Siu-tong, 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  
Hon WONG Sing-chi  
Hon Frederick FUNG Kin-kee  
Hon LAU Ping-cheung  
Hon Audrey EU Yuet-mee, SC, JP

**Members absent :**

Hon James TIEN Pei-chun, GBS, JP  
Dr Hon David CHU Yu-lin, JP  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Dr Hon Eric LI Ka-cheung, GBS, JP  
Dr Hon David LI Kwok-po, GBS, JP  
Dr Hon LUI Ming-wah, JP  
Hon NG Leung-sing, JP  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Dr Hon Philip WONG Yu-hong, GBS  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon YEUNG Yiu-chung, BBS  
Hon LAU Wong-fat, GBS, JP  
Hon Ambrose LAU Hon-chuen, GBS, JP  
Hon Timothy FOK Tsun-ting, SBS, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Henry WU King-cheong, BBS, JP  
Dr Hon LO Wing-lok, JP  
Hon IP Kwok-him, JP  
Hon MA Fung-kwok, 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
Mr Simon WONG	Senior Public Information Officer 1
Miss Polly YEUNG	Chief Council Secretary (1)3
Mrs Constance LI	Chief Council Secretary (2)5
Mrs Betty LEUNG	Chief Council Secretary (3)1
Miss Anita HO	Assistant Legal Adviser 2
Miss Connie FUNG	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Lolita SHEK	Senior Council Secretary (2)7

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**I. Confirmation of the minutes of the 17th meeting held on 27 February 2004**  
*(LC Paper No. CB(2) 1531/03-04)*

The minutes were confirmed.

**II. Business arising from previous Council meetings**

**Legal Service Division report on subsidiary legislation gazetted on 27 February 2004 and tabled in Council on 3 March 2004**  
*(LC Paper No. LS 51/03-04)*

2. The Legal Adviser said that there were four items of subsidiary legislation gazetted on 27 February 2004 and tabled in Council on 3 March 2004.

3. The Legal Adviser explained that the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (the LV(C&L) Regulation) and Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (the LV(TS) Regulation) were made under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) which was enacted in 1999. The implementation of the Ordinance required the introduction of 10 pieces of subsidiary legislation, three of which had already been made in 2001.

4. The Legal Adviser further explained that the LV(C&L) Regulation provided for the certification and licensing of local vessels and other related matters, while the LV(TS) Regulation provided for the regulation and control of local vessels in typhoon shelters.

5. The Legal Adviser said that apart from adopting the existing provisions of related Regulations, some major changes or new provisions had been introduced in the two new Regulations. The Legal Adviser further said that the immunity provisions under section 55 of the LV(C&L) Regulation did not

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appear to fall within the scope of the regulation making power under section 89 of the Ordinance. The Legal Service Division was seeking clarification from the Administration on these technical and drafting issues. A further report would be provided after receiving the Administration's reply.

6. The Legal Adviser added that the Administration consulted the Panel on Economic Services on the two Regulations at its meeting on 25 February 2002, and members of the Panel had expressed various concerns.

7. Mr WONG Yung-kan said that a subcommittee should be formed to study the two Regulations.

8. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join: Mr SIN Chung-kai, Mr WONG Yung-kan and Ms Miriam LAU.

9. Members did not raise any queries on the other two items of subsidiary legislation.

10. The Chairman said that the deadline for amending these items of subsidiary legislation was 24 March 2004, or 21 April 2004, if extended by resolution.

### **III. Business for the Council meeting on 17 March 2004**

(a) **Questions**  
(*LC Paper No. CB(3) 433/03-04*)

11. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 17 March 2004.

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

**Criminal Procedure (Amendment) Bill 2004**

12. The Chairman said that the Administration had given notice to introduce the above Bill into the Council on 17 March 2004. The House Committee would consider the Bill at its meeting on 19 March 2004.

(c) **Government motions**

(i) **Proposed resolution to be moved by the Chief Secretary for Administration under the Legal Aid Ordinance**  
(*Wording of the proposed resolution issued vide LC Paper No. CB(3) 438/03-04 dated 3 March 2004.*)

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13. The Chairman said that the Chief Secretary for Administration (CS) had given notice to move the above resolution at the Council meeting on 17 March 2004.

14. The Chairman further said that the report of the subcommittee set up to study the proposed resolution would be considered under agenda item V(b) below.

**(ii) Proposed resolution to be moved by the Secretary for Financial Services and the Treasury under the Public Finance Ordinance**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 437/03-04 dated 2 March 2004.)*

*(LC Paper No. LS 50/03-04)*

15. The Legal Adviser said that the Secretary for Financial Services and the Treasury (SFST) had given notice to move this year's Vote on Account Motion at the Council meeting on 17 March 2004.

16. The Legal Adviser explained that the purpose of the motion was to seek funds on account to enable the Government to carry on existing services between the start of the financial year on 1 April 2004 and the enactment of the Appropriation Ordinance.

17. The Legal Adviser said that the Legal Service Division had sought clarification from the Administration on the proposed changes in the grouping/classification of accounts in the motion. The Administration had confirmed that the proposed changes were presentational and the maximum percentages for calculating the funds on account to be sought under each subhead for the year 2004-05 remained the same as those of last year.

18. The Legal Adviser added that the legal and drafting aspects of the draft resolution were in order.

19. Members did not raise objection to SFST moving the proposed resolution at the Council meeting on 17 March 2004.

**(iii) Proposed resolution to be moved by the Secretary for Security under the Security and Guarding Services Ordinance**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 418/03-04 dated 25 February 2004.)*

*(LC Paper No. LS 49/03-04)*

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20. The Legal Adviser explained that the motion sought the Legislative Council (LegCo)'s approval for the revised criteria for the issue of a permit to do security work under the Security and Guarding Services Ordinance (Cap. 460). The Legal Adviser further explained that the revised criteria mainly sought to add one more avenue to show "proficiency in security work".

21. The Legal Adviser said that at its meeting on 12 February 2004, the Panel on Security was briefed on the proposal and members did not raise any queries.

22. The Legal Adviser added that the drafting of the motion and the notice presented no difficulty.

23. Mr LEUNG Fu-wah asked whether the proposed new avenue to show "proficiency in security work" was a necessary requirement to be satisfied by the applicant for the issue of a permit to do security work. The Legal Adviser responded that this was an additional avenue for satisfying the requirement of "proficiency in security work".

24. The Chairman declared that she was the Chairman of the Security and Guarding Services Industry Authority.

25. Members did not raise objection to the Secretary for Security moving the proposed resolution at the Council meeting on 17 March 2004.

26. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to these Government motions was Wednesday, 10 March 2004.

**(d) Members' motions**

**(i) Motion on "Respecting and complying with the principles prescribed in the Basic Law"**

*(Wording of the motion issued vide LC Paper No. CB(3) 446/03-04 dated 4 March 2004.)*

**(ii) Motion on "Corporate social and environmental responsibility"**

*(Wording of the motion issued vide LC Paper No. CB(3) 447/03-04 dated 4 March 2004.)*

27. The Chairman said that the above motions would be moved by Mr James TO and Miss CHOY So-yuk respectively, and the wording of their motions had been issued to Members.

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28. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 10 March 2004.

**IV. Advance information on business for the Council meeting on 24 March 2004**

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

**Merchant Shipping (Security of Ships and Port Facilities) Bill 2004**

29. The Chairman said that the Administration had given notice to introduce the above Bill into the Council on 24 March 2004. The House Committee would consider the Bill at its meeting on 16 April 2004.

**V. Reports of Bills Committees and subcommittees**

**(a) Report of the Bills Committee on Copyright (Amendment) Bill 2001 and Copyright (Amendment) Bill 2003**  
*(LC Paper No. CB(1) 1178/03-04)*

30. Mr SIN Chung-kai, Chairman of the Bills Committee, said that the paper reported on the Bills Committee's deliberation on the Copyright (Amendment) Bill 2003.

31. Mr SIN further said that the proposed section 118A was one of the most controversial proposals in the Bill. The proposed section sought to make permanent the arrangements under the Copyright (Suspension of Amendments) Ordinance 2001 (Cap. 568) whereby criminal liability for the use of infringing copies of copyright works in business was confined to four categories of works. The various stakeholders had expressed divergent views on the proposed scope of criminal liability for end-users under the proposed section 118A.

32. Mr SIN explained that in view of the reservations expressed by some local chambers of commerce, the educational sector and public relations practitioners about the proposal to expand the scope of criminal liability to cover printed works, the Administration had proposed to move Committee Stage amendments (CSAs) to delete all provisions in the Bill relating to criminal liability for end-users. The Administration would also move a resolution to extend the effective period under the Suspension Ordinance for 24 months (up to 31 July 2006), pending further discussion with copyright owners and users, and the introduction of a fresh bill into LegCo.

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33. Mr SIN said that the Bills Committee had no objection to the Administration resuming the Second Reading debate on the 2003 Bill on 24 March 2004, and also moving the proposed resolution to extend the suspension period at the same Council meeting. Mr SIN added that the Bills Committee would not move any CSAs.

34. The Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 15 March 2004.

**(b) Report of the Subcommittee on proposed resolution under section 7(a) of the Legal Aid Ordinance**  

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*(LC Paper No. CB(2) 1558/03-04)*

35. Miss Margaret NG, Chairman of the Subcommittee, said that four members of the Subcommittee had stated that they did not support the proposed resolution to adjust downward the financial eligibility limits for the Ordinary Legal Aid Scheme and the Supplementary Scheme. These members were of the view that the existing financial eligibility limits had been set at low levels which did not reflect realistically the financial viability of persons to conduct litigation on a private basis. The reduction in the eligibility limits would deprive more people with justifiable grounds for taking legal action from the grant of legal aid. These members had pointed out that increases in litigation costs had imposed a heavier burden on the litigants and should be taken into account in deciding whether or not the financial eligibility limits should be adjusted.

36. Miss NG further said that CS had given notice to move the proposed resolution at the Council meeting on 17 March 2004. It would be for individual Members to decide whether or not to support the proposed resolution.

**VI. Position on Bills Committees/subcommittees**

*(LC Paper No. CB(2) 1559/03-04)*

*(Director of Administration's letter dated 3 March 2004 on "Proposed Priority in the Scrutiny of Bills by Members")*

37. The Chairman said that there were 14 Bills Committees and seven subcommittees in action, as well as eight Bills Committees on the waiting list.

38. The Chairman drew Members' attention to the Annex to the Director of Administration's letter dated 3 March 2004 which set out the revised order of priority of the bills on the waiting list. Members agreed to the revised order of priority.



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39. The Chairman said that as there was a vacant slot after the Bills Committee on Copyright (Amendment) Bill 2001 and Copyright (Amendment) Bill 2003 had reported under agenda item V(a) above, the Bills Committee on Clearing and Settlement Systems Bill could commence work.

**VII. Any other business**

40. There being no other business, the meeting ended at 2:52 pm.

Council Business Division 2  
Legislative Council Secretariat  
10 March 2004