

立法會  
*Legislative Council*

LC Paper No. CB(2) 1810/03-04

Ref : CB2/H/5

**House Committee of the Legislative Council**

**Minutes of the 20th meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 19 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 James TIEN Pei-chun, GBS, JP  
Hon Cyd HO Sau-lan  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, JP  
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 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 LEUNG Yiu-chung  
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 Chin-shek, JP  
Hon LAU Kong-wah, JP  
Hon LAU Wong-fat, GBS, JP  
Hon Ambrose LAU Hon-chuen, GBS, 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  
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  
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 :**

Dr Hon David CHU Yu-lin, JP  
Hon LEE Cheuk-yan  
Dr Hon Philip WONG Yu-hong, GBS  
Hon Emily LAU Wai-hing, JP  
Hon Timothy FOK Tsun-ting, SBS, JP  
Hon WONG Sing-chi  
Hon Frederick FUNG Kin-kee

**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

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 Anna LO	Principal Council Secretary (Administration)
Mrs Vivian KAM	Principal Council Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Miss Becky YU	Chief Council Secretary (1)1
Mrs Constance LI	Chief Council Secretary (2)5
Mrs Betty LEUNG	Chief Council Secretary (3)1
Miss Anita HO	Assistant Legal Adviser 2
Mr Stephen LAM	Assistant Legal Adviser 4
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Lolita SHEK	Senior Council Secretary (2)7

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**I. Confirmation of the minutes of the 19th meeting held on 12 March 2004  
(LC Paper No. CB(2) 1705/03-04)**

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 asked CS about the reason for taking out the Employment (Amendment) Bill from the Legislative Programme. CS had responded that there was one outstanding issue in the Bill yet to be resolved and it was unlikely that there would be enough time for the Bill to be introduced before the end of the current Legislative Council (LegCo) term.

3. Ms LI Fung-ying enquired whether CS had explained what the outstanding issue was. The Chairman said that CS had not elaborated on what the issue was.

**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)**

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**Criminal Procedure (Amendment) Bill 2004**  
(LC Paper No. LS 56/03-04)

4. The Legal Adviser explained that the Bill sought to amend the Criminal Procedure Ordinance (Cap. 221) to provide for a revised scheme for the determination of the minimum term that a prisoner serving a discretionary life sentence or mandatory life sentence, or detained at Executive discretion, must serve.

5. The Legal Adviser further explained that in a court case in 2002, the Court of First Instance held that section 67C of the Ordinance, which gave the Chief Executive (CE) the power to determine the minimum term that prisoners serving discretionary life sentence or detained at Executive discretion must serve, was inconsistent with Article 80 of the Basic Law and was therefore invalid. As a result of the case, prisoners serving discretionary life sentence or mandatory life sentences, or detained at Executive discretion, were left with no lawfully determined minimum terms. The Bill proposed to revise the scheme so that the determination of minimum terms of these prisoners would be made by a judge of the Court of First Instance instead of by CE.

6. The Legal Adviser added that the Administration consulted the Panel on Security on 13 November 2003 and 12 February 2004 on the proposed scheme, and members had raised various queries and concerns.

7. Miss CHAN Yuen-han said that a Bills Committee should be formed to scrutinize the Bill.

8. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join: Mr Martin LEE, Miss Margaret NG, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Andrew WONG, Mr WONG Yung-kan, Mr Michael MAK and Ms Audrey EU.

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

(b) **Legal Service Division report on subsidiary legislation gazetted on 12 March 2004 and tabled in Council on 17 March 2004**  
(LC Paper No. LS 57/03-04)

10. The Legal Adviser said that there were five items of subsidiary legislation, including two Commencement Notices, gazetted on 12 March 2004 and tabled in Council on 17 March 2004.

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11. The Legal Adviser explained that with the introduction of electronic services for patents and designs, the Intellectual Property (Miscellaneous Amendments) Ordinance 2001 (2 of 2001) (Commencement) Notice 2004, Patents (General) (Amendment) Rules 2004, and Registered Designs (Amendment) Rules 2004 were made to provide a legal basis for the use of electronic means under the Ordinance and relevant Rules. The Patents (General) (Amendment) Rules 2004 and Registered Designs (Amendment) Rules 2004 also sought to simplify the procedures for filing of documents with the Registrar, and to reduce or remove certain fees relating to applications. The Legal Adviser further explained that the Trade Marks (Amendment) Rules 2004 provided that an agent must either reside or had a place of business in Hong Kong, as there was a similar provision in the Trade Marks Ordinance.

12. The Legal Adviser said that the Administration had provided the three Amendment Rules in draft form to the Panel on Commerce and Industry for discussion at its meeting on 9 February 2004. The Panel supported the proposals.

13. The Legal Adviser added that the Legal Service Division had examined the legal and drafting aspects of the three Amendment Rules in draft form and had raised certain queries with the Administration. The Administration had accepted most of the suggestions made by the Division and made amendments to the these Amendment Rules before their gazettal.

14. The Legal Adviser said that the legal and drafting aspects of the five items of subsidiary legislation were in order.

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

16. The Chairman said that the deadline for amending these items of subsidiary legislation was 24 March 2004, or 5 May 2004, if extended by resolution.

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

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

**Airport Authority (Amendment) Bill 2004**

17. 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.

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(b) **Government motion**

**Proposed resolution to be moved by the Secretary for Financial Services and the Treasury (SFST) under the Dutiable Commodities Ordinance**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 475/03-04 dated 15 March 2004.)*

*(LC Paper No. LS 59/03-04)*

18. The Chairman said that at the last House Committee meeting, Members expressed support for SFST's request to the President for the 12-day notice period for the proposed resolution to be waived. The Chairman further said that as the President had waived the requisite notice, SFST would move the proposed resolution for debate at the Council meeting on 24 March 2004.

19. The Legal Adviser said that the proposed resolution sought the Council's approval to extend the existing rate of duty of \$1.11 per litre on ultra low sulphur diesel to 31 December 2004.

20. The Chairman asked whether Members could propose amendment to further extend the expiry date of the duty concession. The Legal Adviser responded that it would be for the President to determine whether the proposed amendment would fall within the restriction under Rule 31(1) of the Rules of Procedure.

(c) **Members' Bills - First Reading and moving of Second Reading**

**Professional Accountants (Amendment) Bill 2004**

21. The Chairman said that Dr Eric LI 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 Deposit Protection Scheme Bill**  
*(LC Paper No. CB(1) 1303/03-04)*

22. Mr Albert HO, Chairman of the Bills Committee, said that the Bills Committee had completed the scrutiny of the Deposit Protection Scheme Bill.

23. Mr HO further said that in response to the concerns raised by the Bills Committee, the Administration would move a number of Committee Stage amendments (CSAs) to, among other things, -

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- (a) provide some guidance on the factors which CE in Council would take into consideration in determining whether to confirm or revoke the Hong Kong Monetary Authority's decision to trigger payment of compensation from the Deposit Protection Scheme (DPS) Fund to the depositors of DPS's member; and
- (b) remove the obligation of a person to preserve or aid in preserving the secrecy of information obtained in the course of performing his function under the DPS legislation. However, the amendment would provide that a relevant person should not suffer or permit any person to have access to any confidential information that he obtained in performing functions under the DPS legislation.

24. Mr Albert HO added that the Bills Committee supported the CSAs proposed by the Administration and the resumption of the Second Reading debate on the Bill on 28 April 2004.

25. Mr HO said that discussions between the Bills Committee and the Administration had been held in an amicable and cooperative manner. Mr HO thanked the Administration and the LegCo Secretariat for their assistance rendered to the Bills Committee in its scrutiny of the Bill.

26. The Chairman said that the deadline for giving notice of CSAs was Monday, 19 April 2004.

(b) **Report of the Subcommittee on Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation and Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation**

27. The Chairman, in her capacity as Chairman of the Subcommittee, said that she would move a motion at the Council meeting on 24 March 2004 on behalf of the Subcommittee to extend the scrutiny period of the two Regulations to 21 April 2004. She added that subject to the extension of scrutiny period to 21 April 2004, the deadline for giving notice of amendments, if any, to the two Regulations, was 14 April 2004.

**VI. Position on Bills Committees/subcommittees**  
(*LC Paper No. CB(2) 1733/03-04*)

28. The Chairman said that there were 14 Bills Committees and eight subcommittees in action, as well as eight Bills Committees on the waiting list, including the Bills Committee on Criminal Procedure (Amendment) Bill 2004 formed under agenda item III(a) above.

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29. The Chairman said that as there was a vacant slot after the Bills Committee on Deposit Protection Scheme Bill had reported on its work under agenda item V(a) above, the Bills Committee on Waste Disposal (Amendment) (No.2) Bill 2003 on the waiting list could commence work.

**VII. Proposed overseas duty visit by the Panel on Manpower**  
(*LC Paper No. CB(2) 1737/03-04*)

30. Mr LAU Chin-shek, Chairman of the Panel, said that the paper sought the House Committee's permission, under rule 22(t) of the House Rules (HR), for the Panel on Manpower to undertake an overseas duty visit to the Republic of Korea from 9 to 12 May 2004 for the purpose of studying the country's experience in creating employment opportunities and providing training/retraining for its workforce.

31. Members expressed support for the proposed visit.

**VIII. Paper of the Committee on Rules of Procedure (CRoP)**

**Proposed amendments to Rule 23 (Late Membership of Committees) of House Rules**  
(*LC Paper No. CROP 28/03-04*)

32. Mr Jasper TSANG, Chairman of CRoP, said that in keeping with the aim of preventing manipulation of the election of the chairmen and deputy chairmen of committees, CRoP recommended that rule 23 of HR be revised to expressly provide that applications for late membership of committees and all matters relating to applications for committee membership should be considered after the election of the chairmen and deputy chairmen, if any, of the committees concerned. The House Committee's endorsement was sought for the proposed amendments to rule 23 in the Appendix of the paper to give effect to the above recommendation.

33. Mr TSANG further said that to facilitate Members' checking as to whether their applications for membership of committees had been received and processed by the Secretariat, the Secretariat had put in place additional administrative arrangement as detailed in paragraph 8 of the paper.

34. Mr TSANG added that CRoP was of the view that the additional administrative arrangement could address the concern relating to the delivery of Members' applications for committee membership to the Secretariat and the handling of disputes arising from the delivery. It was therefore not necessary to make provisions in HR relating to the delivery of such applications.



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35. Members endorsed the amendments to rule 23 of HR as set out in the Appendix of the paper.

**IX. Sixth report of the Subcommittee on Members' Remuneration and Operating Expenses Reimbursement**

*(LC Paper No. AS 195/03-04)*

36. Mr NG Leung-sing, Chairman of the Subcommittee, declared interest on behalf of all Members. Mr NG said that the Subcommittee proposed that a retirement protection scheme be established with contributions paid separately from both Members' own resources and their Office Operation Expenses Reimbursement accounts. The contribution rates would be the same as those stipulated for employees and employers under the Mandatory Provident Fund Schemes Ordinance (MPFSO) (Cap. 485), which currently stood at 5% of an employee's relevant income with a ceiling of \$1,000 per month from either party. In line with the spirit of MPFSO, Members who participated in other retirement schemes should also be eligible for participation in the proposed retirement protection scheme for LegCo Members.

37. Mr NG further said that the Subcommittee recommended that the Administration should be requested to study the proposed retirement protection arrangement and also forward it to the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the HKSAR for consideration.

38. Members agreed to the Subcommittee's recommendation. The Chairman said that she would forward the Subcommittee's proposal to the Administration for consideration.

**X. Any other business**

39. There being no other business, the meeting ended at 3:00 pm.