

立法會
Legislative Council

LC Paper No. CB(2) 2070/03-04

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 21st meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 16 April 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
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
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
Dr Hon Philip WONG Yu-hong, GBS
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 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
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
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 :

Dr Hon Eric LI Ka-cheung, GBS, JP
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon HUI Cheung-ching, JP
Hon CHAN Kam-lam, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon LAU Chin-shek, JP
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, 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 LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Vivian KAM	Principal Council Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Miss Polly YEUNG	Chief Council Secretary (1)3
Mrs Constance LI	Chief Council Secretary (2)5
Ms Bernice WONG	Assistant Legal Adviser 1
Miss Anita HO	Assistant Legal Adviser 2
Ms Connie FUNG	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Lolita SHEK	Senior Council Secretary (2)7

Action

I. Confirmation of minutes of meetings

- (a) **Special meeting held on 27 February 2004**
(LC Paper No. CB(2) 1998/03-04)
- (b) **20th meeting held on 19 March 2004**
(LC Paper No. CB(2) 1810/03-04)

The two sets of minutes were confirmed.

II. Matters arising

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

Subcommittee on Members' Remuneration and Operating Expenses Reimbursement

2. The Chairman said that she had briefed CS on the proposed retirement protection scheme for Members, and had also written to CS requesting the Administration to consider the proposal.

3. The Chairman further said that CS had responded that the Administration would have to refer the proposal to the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the Hong Kong Special Administrative Region for consideration.

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)

(i) Merchant Shipping (Security of Ships and Port Facilities) Bill
(LC Paper No. LS 52/03-04)

4. The Legal Adviser explained that the Bill sought to implement the new provisions of the International Convention for the Safety of Life at Sea, 1974 and the new International Ship and Port Facility Security Code, which were adopted by the International Maritime Organization (IMO) to enhance security of ships and port facilities after the terrorist attacks on 11 September 2001. The new provisions of the Convention and the Code would come into force on 1 July 2004.

5. The Legal Adviser further explained that being an associate member of IMO, Hong Kong was obliged to give effect to the new provisions through domestic legislation.

6. The Legal Adviser said that the Legal Service Division had raised queries with the Administration on the legal and drafting aspects of the Bill. The Administration's response was received on 14 April 2004 and attached to the Legal Service Division report.

7. The Legal Adviser further said that the Bill empowered the Secretary for Economic Development and Labour to make Regulation for the purposes of the Ordinance as stated in the long title. A preliminary draft of the Regulation had been issued to Members on 24 March 2004. As some of the provisions in the draft Regulation were incomplete, the Legal Service Division would prefer to comment on the draft Regulation at a later stage.

8. The Legal Adviser added that the Panel on Economic Services was briefed on the Bill at its meeting on 16 December 2003, and members had raised some concerns. The Legal Adviser suggested that a Bills Committee should be considered for scrutiny of the Bill.

9. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join: Miss Margaret NG, Mr SIN Chung-kai, Ms Miriam LAU and Ms Audrey EU.

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

Action

(ii) **Airport Authority (Amendment) Bill 2004**

(LC Paper No. LS 61/03-04)

(Letter dated 15 April 2004 from the Director of Administration on "Proposed Priority in the Scrutiny of Bills by Members" (LC Paper No. CB(2) 2045/03-04(01))

11. The Legal Adviser explained that the Bill sought to specifically provide that the Legislative Council (LegCo) might, on the recommendation of the Financial Secretary after he had consulted the Airport Authority (AA), by resolution provide for a reduction of AA's capital. Such a resolution could also provide for other ancillary matters including that the capital so reduced be returned to the Government, and that shares issued by AA to the value of the capital returned be cancelled.

12. The Legal Adviser said that the Panel on Economic Services was consulted on 23 February and 2 March 2004 on the Administration's proposal to reduce AA's capital by \$6 billion prior to privatisation. Some members had raised questions on the policy aspects of the proposal.

13. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join: Mr James TIEN, Mr CHAN Kam-lam (as advised by Mr IP Kwok-him), Mr SIN Chung-kai, Ms Miriam LAU and Ms LI Fung-ying.

14. The Chairman referred Members to the Director of Administration's letter dated 15 April 2004 requesting that priority be given to the scrutiny of the Bill. The Chairman said that if Members agreed to the request, the Bills Committee could start work immediately as there would be a vacant slot after the Bills Committee on Broadcasting (Amendment) Bill 2003 had reported under agenda item VIII(a) below. Members agreed.

(iii) **Professional Accountants (Amendment) Bill 2004**

(Dr Hon Eric LI Ka-cheung's letter dated 30 March 2004 to the Chairman of the House Committee (LC Paper No. CB(2) 2009/03-04(01))

(LC Paper No. LS 60/03-04)

15. The Chairman referred Members to Dr Eric LI's letter dated 30 March 2004. The Chairman said that Dr LI had requested that the discussion and a decision on the Bill be deferred to the next House Committee meeting on 23 April 2004, as he was currently outside Hong Kong. Members agreed.

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

Action

- (a) change the name of the Hong Kong Society of Accountants (HKSA) to the Hong Kong Institute of Certified Public Accountants;
- (b) alter the composition of its Council and to expand the membership of the Council;
- (c) reform the investigation and disciplinary mechanism;
- (d) broaden the powers of the Council; and
- (e) make miscellaneous technical amendments and consequential amendments to the Professional Accountants By-laws (Cap. 50 sub. leg. A) and other legislation.

17. The Legal Adviser further explained that in response to observations made by the Legal Service Division, HKSA had agreed to move Committee Stage amendments (CSAs) to the Bill, which were attached to the Legal Service Division report. Subject to these CSAs, no difficulties had been observed on the legal and drafting aspects of the Bill.

18. The Chairman said that a decision on the Bill would be made at the next meeting on 23 April 2004.

(iv) Standard Chartered Bank (Hong Kong) Limited (Merger) Bill
(LC Paper No. LS 66/03-04)

19. The Legal Adviser said that this was a Member's bill introduced by Dr David LI. The Legal Adviser explained that the Bill sought to provide for the vesting in Standard Chartered Bank (Hong Kong) Limited of the undertakings of the Hong Kong Branch of Standard Chartered Bank, Manhattan Card Company Limited, Standard Chartered Finance Limited, Standard Chartered International Trade Products Limited and Chartered Capital Corporation Limited, and for other related purposes.

20. The Legal Adviser further explained that the Bill was similar to the recently enacted bank merger ordinances. The provision relating to the issue of legal tender notes also closely followed that in the Bank of China (Hong Kong) Limited (Merger) Ordinance.

21. The Legal Adviser said that the Panel on Financial Affairs was briefed on the Bill on 2 February 2004. Panel members noted that the Administration supported the Bill.

Action

22. The Legal Adviser added that subject to Members' views, the Bill was ready for resumption of Second Reading debate.

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

(b) Legal Service Division report on subsidiary legislation gazetted on 19 March 2004 and tabled in Council on 24 March 2004
(*LC Paper No. LS 62/03-04*)

24. The Legal Adviser said that there were three items of subsidiary legislation, including two Commencement Notices, gazetted on 19 March 2004 and tabled in Council on 24 March 2004.

25. The Legal Adviser explained that the Shipping and Port Control Regulations (Amendment of Eighteenth Schedule) Notice 2004 introduced 3 new restricted zones (Discovery Bay, Repulse Bay and Tai Lam Bay areas) to enhance the safety of waterborne activities at or near popular beach areas. When briefed on the proposal at its meeting on 15 January 2004, the Panel on Economic Services was generally in support of the proposal.

26. The Legal Adviser added that the Notice would come into operation on 15 May 2004.

27. Members did not raise any queries on the three items of subsidiary legislation.

28. The Chairman said that the deadline for amending these items of subsidiary legislation was 21 April 2004, or 12 May 2004, if extended by resolution.

IV. Legal Service Division report on subsidiary legislation gazetted on 26 March 2004

(*LC Paper No. LS 64/03-04*)

29. The Legal Adviser said that there were three items of subsidiary legislation gazetted on 26 March 2004.

30. Regarding the Antiquities and Monuments (Declaration of Historical Building) Notice 2004, the Legal Adviser explained that the building known as "馬禮遜樓" and its adjoining land within Hoh Fuk Tong Centre was declared to be a historical building by this Notice.

Action

31. The Legal Adviser said that the Administration had provided two information papers on "Declaration of the Morrison Building as a Monument" to the Panel on Home Affairs, but the matter had not been discussed by the Panel.

32. Mr Andrew WONG enquired about the effect of the Antiquities and Monuments (Declaration of Historical Building) Notice 2004. The Legal Adviser explained that under the Antiquities and Monuments Ordinance (Cap. 53), except with the approval of the Secretary for Home Affairs, no person could carry out building or other works on or in the Morrison Building, or demolish, remove, obstruct, deface or interfere with the Building, after it had been declared a historical building by the Notice.

33. As regards the Federation of Hong Kong Industries (Addition of a Scheduled Group) Notice 2004, the Legal Adviser explained that by this Notice, a new scheduled group, i.e. environmental industries, was added to the First Schedule to the Federation of Hong Kong Industries Ordinance (Cap. 321).

34. The Legal Adviser added that no difficulties had been observed in the legal and drafting aspects of the three items of subsidiary legislation.

35. Members did not raise other queries on these items of subsidiary legislation.

36. The Chairman said that the deadline for amending these items of subsidiary legislation was 19 May 2004, or 9 June 2004, if extended by resolution.

V. Legal Service Division report on subsidiary legislation gazetted on 8 April 2004

(LC Paper No. LS 65/03-04)

37. The Legal Adviser said that only one item of subsidiary legislation, the Construction Industry Levy (Miscellaneous Amendments) Ordinance 2004 (3 of 2004) Commencement Notice 2004, was gazetted on 8 April 2004.

38. The Legal Adviser explained that this Notice appointed 1 June 2004 as the day on which Parts 1, 2 and 4 the Construction Industry Levy (Miscellaneous Amendments) Ordinance 2004 would come into operation.

39. The Legal Adviser added that the relevant Bill had been examined by a Bills Committee before enactment.

Action

40. Members did not raise any queries on this item of subsidiary legislation.

41. The Chairman said that the deadline for amending this item of subsidiary legislation was 19 May 2004, or 9 June 2004, if extended by resolution.

VI. Business for the Council meeting of 21 and 22 April 2004

(a) Questions

(LC Paper No. CB(3) 507/03-04)

42. The Chairman said that 20 written questions had been scheduled for the Council meeting of 21 and 22 April 2004.

(b) Bills - resumption of debate on Second Reading

Appropriation Bill 2004

(Members speak)

43. The Chairman said that in accordance with Rule 36(5) of the Rules of Procedure, Members would each have a maximum of 15 minutes to speak.

VII. Business for the Council meeting on 28 April 2004

(a) Questions

(LC Paper No. CB(3) 508/03-04)

44. The Chairman said that 20 written questions had been scheduled for the Council meeting on 28 April 2004.

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

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

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

Appropriation Bill 2004

(Response from the Administration)

46. The Chairman said that the Administration would respond to Members' comments on the Appropriation Bill 2004.

Action

(d) **Government motion**

Proposed resolution to be moved by the Secretary for Health, Welfare and Food (SHWF) under the Pharmacy and Poisons Ordinance relating to:

- (i) **the Pharmacy and Poisons (Amendment) Regulation 2004;**
and
- (ii) **the Poisons List (Amendment) Regulation 2004**
(Wording of the proposed resolution issued vide LC Paper No. CB(3) 474/03-04 dated 15 March 2004.)
(LC Paper No. LS 58/03-04)

47. The Legal Adviser said that SHWF had given notice to move the proposed resolution at the Council meeting on 28 April 2004. The Legal Adviser explained that the proposed resolution sought LegCo's approval for the Pharmacy and Poisons (Amendment) Regulation 2004 and the Poisons List (Amendment) Regulation 2004 which added a new substance, i.e. Teriparatide and its salts, to part A of Part I of the Poisons List of the Poisons List Regulations (Cap. 138 sub. leg. B) and part A of the First and Third Schedules to the Pharmacy and Poisons Regulation (Cap. 138 sub. leg. A).

48. The Legal Adviser further explained that the addition of the new drug by the two Amendment Regulations meant that pharmaceutical products containing the substance must be sold in a pharmacy under the supervision of a registered pharmacist and in his presence, with the support of prescriptions.

49. The Legal Adviser added that the two Amendment Regulations would come into operation on the day they were published in the Gazette after being approved by LegCo.

50. Members did not raise objection to SHWF moving the proposed resolution at the Council meeting on 28 April 2004.

VIII. Report of Bills Committees and subcommittees

- (a) **Report of the Bills Committee on Broadcasting (Amendment) Bill 2003**

(LC Paper No. CB(1) 1510/03-04)

51. Mr SIN Chung-kai, Chairman of the Bills Committee, said that the Bills Committee had completed scrutiny of the Bill.

Action

52. Mr SIN informed Members that that one of the most contentious issues arising from the Bill was whether criminal sanction should be imposed on domestic or private pirated viewing of pay television programmes, in addition to the civil remedy proposed under the Bill. The Bills Committee noted that several television broadcasters, in particular the Hong Kong Cable Television Limited, had advocated strongly for the criminalization of domestic or private pirated viewing of pay television programmes through the possession or use of unauthorized decoders, in order to enhance the deterrent effect.

53. Mr SIN said that the Bills Committee had examined in detail the arguments for and against criminalizing domestic pirated viewing of pay television programmes. The Bills Committee noted that the Administration and the major industry player did not share a common view on the issue at this stage. As domestic pirated viewing through the possession or use of unauthorized decoders was very rampant, the Bills Committee had explored with the Administration other measures to address the problem, and had urged the Administration to step up enforcement action in this regard.

54. Mr SIN further said that after considering all relevant factors, most members of the Bills Committee had expressed reservations about criminalizing domestic pirated viewing of pay television programmes at the present stage. They had, however, urged the Administration to review the effectiveness of digitization, the implementation of the new statutory provisions and enforcement actions 12 months after the commencement of the Bill, if enacted. The Administration had undertaken to report to the Panel on Information Technology and Broadcasting on the outcome of the review.

55. Mr SIN informed Members that Mr MA Fung-kwok had indicated that he would move CSAs to the Bill to make domestic pirated viewing of pay television programmes an offence.

56. Mr SIN added that the Bills Committee had no objection to the Administration's proposal to resume the Second Reading debate on the Bill on 5 May 2004 and the CSAs proposed by the Administration.

57. The Chairman reminded Members that the deadline for giving notice of CSAs to the Bill was Saturday, 24 April 2004.

(b) **Report of the Subcommittee on Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation and Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation**
(LC Paper No. CB(1) 1476/03-04 issued vide LC Paper No. CB(2) 1985/03-04 dated 13 April 2004)

58. The Chairman, in her capacity as Chairman of the Subcommittee, said that the Subcommittee had completed scrutiny of the Merchant Shipping (Local

Action

Vessels) (Certification and Licensing) Regulation and Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation.

59. The Chairman informed Members that in response to the Subcommittee's suggestions, the Administration had given notice to move a motion at the Council meeting on 21 April 2004 to amend certain sections of the Regulations, including -

- (a) section 55 of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation to clarify that a certificate of ownership was not intended to be an evidence of title; and
- (b) section 11 of the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation to provide for a suitable appeal mechanism.

60. The Chairman said that the Subcommittee supported the proposed amendments to be moved by the Administration.

61. The Chairman added that the Administration had undertaken to explore new mooring areas to offer more choices of typhoon mooring arrangements for operators of vessels with length overall exceeding 50 metres. The Administration would report the progress to the Panel on Economic Services within the current legislative session.

IX. Position on Bills Committees/subcommittees
(LC Paper No. CB(2) 1975/03-04)

62. The Chairman said that there were 14 Bills Committees and seven subcommittees in action. There were also nine Bills Committees on the waiting list, including the Bills Committee on Merchant Shipping (Security of Ships and Port Facilities) Bill and the Bills Committee on Airport Authority (Amendment) Bill 2004 formed under agenda item III(a) above.

63. The Chairman further said that Members had agreed to give priority to the scrutiny of the Airport Authority (Amendment) Bill 2004 under agenda item III(a) above. The relevant Bills Committee could start work immediately as there was a vacant slot.

64. Mr Abraham SHEK said that he objected to giving priority to the scrutiny of the Airport Authority (Amendment) Bill 2004, which was introduced much later than the Construction Industry Council Bill. He added that the Bills Committee on Construction Industry Council Bill had been waiting for its turn for quite some time.

Action

65. The Chairman explained that the Administration had requested priority be accorded to the scrutiny of the Airport Authority (Amendment) Bill 2004 and not the Construction Industry Council Bill. She said that unless the Administration requested priority for the scrutiny of a certain Bill, the relevant Bills Committee would have to wait for its turn to commence work.

X. Any other business

66. There being no other business, the meeting ended at 3 pm.

Council Business Division 2
Legislative Council Secretariat
21 April 2004