

立法會
Legislative Council

LC Paper No. CB(2) 2515/03-04

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 25th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 21 May 2004**

Members present :

Hon Miriam LAU Kin-ye, 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
Ir Dr Hon Raymond HO Chung-tai, JP
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 Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
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
Dr Hon Philip WONG Yu-hong, GBS
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 Kong-wah, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP

Hon CHOY So-yuk
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 Henry WU King-cheong, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
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 :

Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon Margaret NG
Hon HUI Cheung-ching, JP
Hon LAU Chin-shek, JP
Hon LAU Wong-fat, GBS, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok, 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 Council Secretary (Complaints)
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
Miss Kitty CHENG	Assistant Legal Adviser 5
Mr Simon WONG	Senior Public Information Officer 1
Ms Alice AU	Senior Council Secretary (1)5
Miss Lolita SHEK	Senior Council Secretary (2)7

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I. Confirmation of the minutes of the 24th meeting held on 7 May 2004
(LC Paper No. CB(2) 2362/03-04)

The minutes were confirmed.

II. Matters arising

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

Chief Executive (CE)'s Question and Answer Session on 6 May 2004

2. The Chairman said that she had informed CS that a Member had expressed dissatisfaction at CE's refusal to stay longer as requested. CS had responded that he had already relayed Members' request and undertook to advise CE of Members' wish again.

(b) Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997) (Commencement) Notice 2004

(Paragraphs 12 to 16 of the minutes of the 24th House Committee meeting on 7 May 2004)

[Previous papers:

Legal Service Division report on subsidiary legislation gazetted on 30 April 2004 and tabled in Council on 5 May 2004 (LC Paper No. LS 74/03-04) issued vide LC Paper No. CB(2) 2279/03-04 dated 6 May 2004; and

Letter dated 10 May 2004 from the Department of Justice (D of J) issued vide LC Paper No. CB(2) 2328/03-04 dated 12 May 2004]

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3. The Chairman said that at the last House Committee meeting, Miss Margaret NG had requested that a decision on this item of subsidiary legislation be deferred to this meeting, as she wished to ascertain whether the Law Society of Hong Kong had been consulted on the commencement of section 13 of the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997.
4. The Chairman informed Members that D of J had written to the Legislative Council (LegCo) Secretariat on 10 May 2004 confirming that the Law Society of Hong Kong had been consulted and had no objection to the commencement date, i.e. 1 July 2004.
5. The Chairman added that Miss Margaret NG had no further comments on this item of subsidiary legislation and did not request for a subcommittee.
6. Members did not raise further queries on this item of subsidiary legislation.
7. The Chairman said that the deadline for amending this item of subsidiary legislation was 2 June 2004, or 23 June 2004, if extended by resolution.

III. Business arising from previous Council meetings

- (a) **Legal Service Division report on subsidiary legislation gazetted on 7 May 2004 and tabled in Council on 12 May 2004**
(LC Paper No. LS 76/03-04)

8. The Legal Adviser said that there were seven items of subsidiary legislation, including two Commencement Notices, gazetted on 7 May 2004 and tabled in Council on 12 May 2004.
9. The Legal Adviser explained that the Education (Exemption) (Private Schools Offering Non-formal Curriculum) Order exempted an exempted school and its personnel from certain requirements of the provisions of the Education Ordinance (Cap. 279) and Education Regulations (Cap. 279 sub. leg. A).
10. The Legal Adviser further explained that "an exempted school" was defined to mean a school that provided any educational course other than nursery, kindergarten, primary, secondary or post secondary education, and was not funded wholly or partly by any subsidy from the Government.
11. The Legal Adviser said that the Administration had consulted the Panel on Education on its proposal at the Panel meeting on 15 December 2003. In

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response to the Panel's concern, the Administration had excluded from the Order the previous proposal of allowing such schools to collect more than one month and not more than three months' course fee. Collection of course fee on an equal monthly basis would be maintained. This Order would come into operation on 1 July 2004.

12. The Legal Adviser further said that no difficulties relating to the legal and drafting aspects of all the seven items of subsidiary legislation had been identified.

13. Members did not raise any queries on these seven items of subsidiary legislation.

14. The Chairman said that the deadline for amending these items of subsidiary legislation was 9 June 2004, or 30 June 2004, if extended by resolution.

(b) Legal Service Division report on subsidiary legislation gazetted on 14 May 2004 and tabled in Council on 19 May 2004
(LC Paper No. LS 77/03-04)

15. The Legal Adviser said that there were 17 items of subsidiary legislation, including 2 Commencement Notices, gazetted on 14 May 2004 and tabled in Council on 19 May 2004.

16. The Legal Adviser explained that the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2004 introduced changes to the electoral procedure of LegCo elections in order to speed up the counting process.

17. The Chairman said that the House Committee decided on 9 January 2004 that subsidiary legislation relating to the 2004 LegCo elections to be gazetted within the session should be examined by the Subcommittee on subsidiary legislation relating to 2004 Legislative Council elections. This item of subsidiary legislation would be examined by the Subcommittee.

18. Regarding the Food and Drugs (Composition and Labelling) (Amendment) Regulation 2004, the Legal Adviser explained that the Regulation sought mainly to strengthen food labelling requirements in respect of the declaration of presence of certain allergic substances and food additives.

19. The Legal Adviser said that since the publication of the Regulation in the Gazette, representatives of the retail trade had sent in submissions to the LegCo Secretariat expressing concern about the Regulation.

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20. Mrs Selina CHOW said that representatives of the retail trade had expressed their concern about the proposed amendments to the Administration in 2001, but no response had been received from the Administration so far. The trade was very concerned that their views had not been considered before the gazettal of the Regulation. Mrs CHOW suggested that a subcommittee should be formed to study the Regulation.

21. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join: Mr Fred LI, Mrs Selina CHOW, Mr WONG Yung-kan (as advised by Mr IP Kwok-him), Mr Tommy CHEUNG and Mr Michael MAK.

22. The Legal Adviser further explained that the following five items of subsidiary legislation were made under section 29(1B) of the Supplementary Medical Professions Ordinance (Cap. 359) -

- (a) Medical Laboratory Technologists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004;
- (b) Occupational Therapists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004;
- (c) Optometrists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004;
- (d) Physiotherapists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004; and
- (e) Radiographers (Registration and Disciplinary Procedure) (Amendment) Regulation 2004.

23. The Legal Adviser said that the Administration considered public consultation on these five items of subsidiary legislation not necessary because the amendments were either technical or textual. The amendments would not bring about material change to the operations of the Supplementary Medical Professions Council or the existing arrangement for registration and disciplinary control governing the five relevant professions. The Legal Adviser further said that the Administration had provided an information paper setting out the background and reasons for making the amendments to the Panel on Health Services on 13 May 2004. Panel members did not raise any queries on the paper.

24. The Legal Adviser added that the above five items of subsidiary legislation would come into operation on 1 August 2004. Members did not raise any queries on these and the other 10 items of subsidiary legislation.

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25. The Chairman said that the deadline for amending these items of subsidiary legislation was 16 June 2004, or 7 July 2004, if extended by resolution.

IV. Business for the Council meeting on 2 June 2004

(a) Questions

(LC Paper No. CB(3) 623/03-04)

26. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 2 June 2004.

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

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

(c) Government motion

Two proposed resolutions to be moved by the Secretary for Security under the Mutual Legal Assistance in Criminal Matters Ordinance relating to:

(i) the Mutual Legal Assistance in Criminal Matters (Ukraine) Order; and

(ii) the Mutual Legal Assistance in Criminal Matters (Singapore) Order

(Wording of the proposed resolutions issued vide LC Paper No. CB(3) 592/03-04 dated 7 May 2004.)

28. The Chairman said that a subcommittee had examined the two proposed resolutions and reported to the House Committee on 23 April 2004.

29. Members did not raise objection to the Secretary for Security moving the two proposed resolutions.

(d) Members' motions

(i) Motion on "Urging the Government to defend freedom of the press and freedom of speech"

(Wording of the motion issued vide LC Paper No. CB(3) 632/03-04 dated 19 May 2004.)

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- (ii) **Motion on "Safeguarding the rights and benefits of public servants and staff of outsourced government services"**
(Wording of the motion issued vide LC Paper No. CB(3) 633/03-04 dated 19 May 2004.)

30. The Chairman said that the above motions would be moved by Mr Albert CHAN and Mr LEUNG Fu-wah respectively, and the wording of their motions had been issued to Members.

31. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Tuesday, 25 May 2004.

V. Reports of Bills Committees and subcommittees

- (a) **Report of the Bills Committee on Hong Kong Sports Development Board (Repeal) Bill**

(LC Paper No. CB(2) 2431/03-04)

32. Mr NG Leung-sing, Chairman of the Bills Committee, said that the Bills Committee had completed scrutiny of the Hong Kong Sports Development Board (Repeal) Bill.

33. Mr NG informed Members that some members of the Bills Committee had expressed concern about the transitional arrangements for staff of the Hong Kong Sports Development Board (SDB) upon its dissolution. These members considered that the Administration should first resolve the staff dispute before the Bills Committee continued its scrutiny work. The Administration subsequently informed the Bills Committee that it had reached agreement in principle with SDB staff representatives on the arrangement regarding the transition from SDB to the new Hong Kong Sports Institute.

34. Mr NG said that the Administration had agreed to move Committee Stage amendments (CSAs) to the Bill in response to members' concern. The Administration had also undertaken to follow up members' requests as detailed in paragraph 19 of the report.

35. Mr NG added that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 9 June 2004.

36. The Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 31 May 2004.

- (b) **Report of the Bills Committee on Electronic Transactions (Amendment) Bill 2003**

(LC Paper No. CB(1) 1837/03-04)

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37. Mr SIN Chung-kai, Chairman of the Bills Committee, said that the Bills Committee had completed scrutiny of the Electronic Transactions (Amendment) Bill 2003.

38. Mr SIN said that the Administration would move a CSA to stipulate 30 June 2004 as the date on which the Bill, if enacted, would come into operation. The Administration had also proposed to merge the Information Technology Services Department with the information technology (IT)-related divisions of the Communications and Technology Branch of the Commerce, Industry and Technology Bureau (CITB) to form a new, integrated entity within CITB responsible for IT-related policies and operational matters. A new post of Government Chief Information Officer would be created to head the new entity, subject to the approval of the Finance Committee. Mr SIN further said that the Administration had planned to transfer, with effect from 1 July 2004, the powers and functions conferred by the Electronic Transactions Ordinance (Cap. 553) as amended by the Bill on the Director of Information Technology Services to the proposed Government Chief Information Officer. The Bills Committee did not have any objection to these proposals.

39. Mr SIN further said that the Bills Committee supported the Administration's proposal to resume the Second Reading debate on the Bill on 23 June 2004. It also supported the proposed CSAs to be moved by the Administration, and would not move any CSA in its name.

40. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 12 June 2004.

(c) Report of the Bills Committee on Airport Authority (Amendment) Bill 2004

(LC Paper No. CB(1) 1850/03-04)

(Letter dated 19 May 2004 from the Secretary for Financial Services and the Treasury (SFST) to the Chairman of the House Committee)

41. Mr SIN Chung-kai, Chairman of the Bills Committee, said that the Bills Committee had completed scrutiny of the Airport Authority (Amendment) Bill 2004.

42. Mr SIN further said that the Bills Committee supported the Bill and the resumption of the Second Reading debate on 9 June 2004. No CSA would be moved by the Administration or the Bills Committee.

43. Mr SIN informed Members that subject to the enactment of the Bill on 9 June 2004, the Administration had proposed to move a resolution at the Council meeting on 16 June 2004 to effect the proposed reduction of \$6 billion in the capital of the Airport Authority (AA), and to require AA to distribute an

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amount equivalent to the reduction to the Government. The draft resolution had been considered in parallel by the Bills Committee and was not controversial. Mr SIN added that the Administration had explained that it was important to allow AA to raise funds as early as possible in the market, given the ongoing uncertainties over interest rate rises. The Administration therefore sought the House Committee's support in principle for the President to waive the notice requirement for SFST to move the proposed resolution.

44. Referring to SFST's letter dated 19 May 2004, the Chairman invited Members to consider SFST's request for the House Committee's support in principle for the President to waive the notice requirement for moving the proposed resolution at the Council meeting on 16 June 2004, subject to the passage of the Bill on 9 June 2004. Members agreed.

45. The Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 31 May 2004.

(d) Report of the Subcommittee on Proposed Resolution under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance
(LC Paper No. CB(1) 1868/03-04)

46. The Chairman, in her capacity as the Chairman of the Subcommittee, reported that the Subcommittee had completed deliberation on the proposed resolution which sought LegCo's approval to amend item 53 of the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) to the effect that drivers of public light buses (PLBs) would not be subject to a fixed penalty when passengers in the front seats were under the age of 15 and were not securely fastened with seat belts. The Subcommittee recommended that the Administration could give notice to move the proposed resolution at a future Council meeting.

47. The Chairman added that in response to some members' concern about the safety of passengers in the front seats on PLBs, the Administration had explained that currently no PLBs were provided with front seats. Nevertheless, the Administration had undertaken to keep in view the development of new PLB models in future to ensure that front-seat configuration would be avoided as far as possible. The Administration would also step up publicity on the seat belt requirement on all PLB passengers prior to its implementation on 1 August 2004, as well as actively encourage PLB drivers to remind passengers of their responsibility to wear seat belts.

VI. Position on Bills Committees/subcommittees
(LC Paper No. CB(2) 2413/03-04)

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48. The Chairman said that there were 12 Bills Committees and six subcommittees in action, as well as nine Bills Committees on the waiting list.

49. The Chairman further said that as there were three vacant slots after three Bills Committees had reported under agenda item V above, the following Bills Committees on the waiting list could commence work -

- (a) Bills Committee on Merchant Shipping (Security of Ships and Port Facilities) Bill;
- (b) Bills Committee on Road Traffic (Amendment) Bill 2003; and
- (c) Bills Committee on Professional Accountants (Amendment) Bill 2004.

50. Dr Eric LI, Chairman of the Bills Committee on Inland Revenue (Amendment) Bill 2000, said that the Bills Committee could report to the next House Committee meeting on 28 May 2004. The Chairman added that if there was new or revised proposal from the Administration concerning this Bill, the Bills Committee might have to hold further meetings.

VII. Paper of the Committee on Rules of Procedure (CRoP)

Motions proposed under "Any other business" on the agenda of Panel meetings

(LC Paper No. CROP 38/03-04)

51. Mr Jasper TSANG, Chairman of CRoP, said that as requested by the Panel on Public Service, CRoP had studied whether motions proposed under "Any other business" on the agenda of Panel meetings or under a newly added discussion item under "Any other business" were admissible under rule 22(p) of the House Rules.

52. Mr TSANG informed Members that after consideration, CRoP took the view that such motions proposed under "Any other business" on the agenda of Panel meetings were not admissible under rule 22(p) of the House Rules.

53. Members noted CRoP's views as set out in paragraphs 8 and 9 of the paper.

54. Ms Emily LAU asked whether CRoP's interpretation of rule 22(p) of the House Rules would be clearly laid down to facilitate compliance by Members.

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55. Mr Jasper TSANG suggested that CRoP's view could be included in the Chair's Guide to be prepared by the LegCo Secretariat.

56. Ms Emily LAU suggested that Members be consulted on the draft Guide in this respect.

VIII. Any other business

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

Council Business Division 2
Legislative Council Secretariat
27 May 2004