

立法會
Legislative Council

LC Paper No. CB(2) 2697/03-04

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 27th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 4 June 2004**

Members present :

Hon Miriam LAU Kin-yee, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, 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
Dr Hon LUI Ming-wah, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon James TO Kun-sun
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, 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 YEUNG Yiu-chung, BBS
Hon LAU Chin-shek, JP
Hon LAU Kong-wah, 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
Dr Hon LO Wing-lok, 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
Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon NG Leung-sing, JP
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung, JP
Hon CHAN Yuen-han, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, 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
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
Ms Odelia LEUNG	Chief Council Secretary (1)4
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 Monna LAI	Assistant Legal Adviser 7
Mr Simon WONG	Senior Public Information Officer 1
Miss Lolita SHEK	Senior Council Secretary (2)7

Action

I. Confirmation of the minutes of the 26th meeting held on 28 May 2004
(LC Paper No. CB(2) 2597/03-04)

The minutes were confirmed.

II. Matters arising

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

Criminal Procedure (Amendment) Bill 2004

2. The Chairman said that she had informed CS that the Bills Committee on Criminal Procedure (Amendment) Bill 2004 could commence work and there were five Bills Committees on the waiting list.

3. The Chairman further said that the Director of Administration had confirmed the Administration's intention to request for resumption of scrutiny of the Human Organ Transplant (Amendment) Bill 2001. The Administration's request would be discussed under agenda item VII below.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 28 May 2004 and tabled in Council on 2 June 2004
(LC Paper No. LS 80/03-04)

4. The Legal Adviser said that there were three items of subsidiary legislation gazetted on 28 May 2004 and tabled in Council on 2 June 2004.

5. Members did not raise any queries on these three items of subsidiary legislation.

Action

6. The Chairman said that the deadline for amending these items of subsidiary legislation was 30 June 2004, or the first meeting of the Legislative Council (LegCo) in the next session, if extended by resolution.

IV. Further business for the Council meeting on 9 June 2004

(a) Questions

(LC Paper No. CB(3) 654/03-04)

7. The Chairman said that Mr Albert CHAN, Mr Fred LI and Mr Abraham SHEK had replaced their previous oral questions.

(b) Government motion

Proposed resolution to be moved by the Secretary for Education and Manpower under section 34(2) of the Interpretation and General Clauses Ordinance relating to Education (Exemption) (Private Schools Offering Non-formal Curriculum) Order

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 670/03-04 dated 3 June 2004.)

8. The Chairman said that the Education (Exemption) (Private Schools Offering Non-formal Curriculum) Order was gazetted on 7 May 2004. Members did not raise any queries on the Order when it was considered at the House Committee meeting on 21 May 2004. However, a point of concern about the Order was raised by Mr CHEUNG Man-kwong after the meeting and conveyed to the Administration by the Legal Service Division.

9. The Legal Adviser explained that the proposed resolution sought to make a few amendments to the Order to the effect that a person convicted of an offence under the Prevention of Child Pornography Ordinance (Cap. 579) could not teach in an exempted school, unless approval was given by the Secretary for Education and Manpower (SEM).

10. Members did not raise objection to SEM moving the proposed resolution.

(c) Members' motion

Motion on "Demonstrating the people's power on 1 July"

(Wording of the motion issued vide LC Paper No. CB(3) 656/03-04 on 31 May 2004.)

Action

11. The Chairman said that the above motion would be moved by Mr LEE Cheuk-yan. The wording of the motion was issued to Members on 31 May 2004.

V. Business for the Council meeting on 16 June 2004

(a) Questions

(LC Paper No. CB(3) 655/03-04)

12. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 16 June 2004.

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

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

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

Inland Revenue (Amendment) Bill 2000

14. The Chairman said that the Bills Committee had reported at the last House Committee meeting on 28 May 2004, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(d) Government motions

(i) Proposed resolution to be moved by the Secretary for Economic Development and Labour under section 54A of the Interpretation and General Clauses Ordinance

(Wording of the proposed resolution issued vide LC Paper No.

CB(3) 666/03-04 dated 2 June 2004.)

(LC Paper No. LS 82/03-04)

15. The Legal Adviser explained that the proposed resolution sought LegCo's approval to transfer the statutory powers and functions of CS and the Financial Secretary under certain provisions in various ordinances to the Secretary for Economic Development and Labour (SEDL).

16. The Legal Adviser further explained that according to the draft speech of SEDL, the powers and functions proposed to be transferred fell within SEDL's policy portfolio, and most of them were procedural or administrative matters relating to the statutory organisations under SEDL's purview.

Action

17. The Legal Adviser said that the Panel on Economic Services was briefed on 24 and 31 May 2004 on the proposal. Panel members generally supported the proposal after the Administration had agreed to delete two provisions concerning the power of CS from the proposed resolution.

18. The Legal Adviser added that no difficulties in relation to the legal and drafting aspects of the proposed resolution had been identified.

19. Members did not raise objection to SEDL moving the proposed resolution.

(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) 637/03-04 dated 24 May 2004.)

(LC Paper No. LS 81/03-04)

20. The Legal Adviser explained that the Secretary for Financial Services and the Treasury (SFST) would move the proposed resolution to seek LegCo's approval to authorize the Government to transfer a sum of \$40 billion from the Land Fund to the general revenue. According to SFST's draft speech, the purpose of the transfer was to meet the anticipated cashflow shortfall in 2004-05.

21. The Legal Adviser said that at its meeting on 3 May 2004, the Panel on Financial Affairs (FA Panel) was briefed on the Administration's present proposal. The Legal Adviser added that a similar resolution was passed in May 2003 to authorize the transfer of \$120 billion from the Land Fund to the general revenue in order to meet the Government's expenditure requirement.

22. Miss Margaret NG enquired about the deliberation of and the concerns raised by the subcommittee formed to examine the previous resolution passed in May 2003. The Legal Adviser said that some members of the subcommittee had expressed concern that the original proposed resolution did not provide a specific amount for transfer by the Financial Secretary from the Land Fund to the general revenue. In the light of that concern, the proposed resolution was changed to providing a specific amount of \$120 billion. Some members had also expressed concern about the uses of the Land Fund and whether it should be dissolved.

23. Miss Margaret NG requested that the report of the subcommittee be re-circulated to Members for reference.

24. Members did not object to SFST moving the proposed resolution.

Action

(e) **Members' motions**

(i) **Motion on "Review of land policy"**

(Wording of the motion issued vide LC Paper No. CB(3) 672/03-04 dated 2 June 2004.)

(ii) **Motion on "Promoting Hong Kong as a world-class financial services and asset management centre"**

(Wording of the motion issued vide LC Paper No. CB(3) 673/03-04 dated 2 June 2004.)

25. The Chairman said that the above motions would be moved by Mr Abraham SHEK and Mr Ambrose LAU respectively, and the wording of the motions had been issued to Members.

26. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 9 June 2004.

VI. Reports of Bills Committees and subcommittees

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

27. Ms Cyd HO, Chairman of the Bills Committee, said that the Bills Committee had completed scrutiny of the Buildings (Amendment) Bill 2003.

28. Ms HO further said that the Bills Committee considered that the proposed regulatory regime for Category III minor works would cause excessive nuisance to the general public. The Bills Committee was of the view that it was prudent not to proceed with the proposed minor works control regime hastily, until all the concerns raised by members and the industry had been addressed. The Administration had agreed to delete all provisions relating to minor works from the Bill pending further consultation.

29. Ms HO added that as unauthorized building structures affected public safety, its regulatory mechanism should be improved as soon as possible. The Bills Committee had urged the Administration to re-introduce the revised minor works control regime to LegCo in the next session.

30. Ms HO said that the Bills Committee supported the CSAs to be moved by the Administration. It also supported the Administration's proposal to resume the Second Reading debate on the Bill at the Council meeting on 23 June 2004.

Action

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

(b) Report of the Subcommittee on subsidiary legislation relating to 2004 Legislative Council elections

32. Mr Andrew WONG, Deputy Chairman of the Subcommittee, said that the Subcommittee was scrutinizing the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2004. Members of the Subcommittee had expressed concern about the counting of votes for geographical constituency elections at individual polling stations. The Subcommittee would hold further meetings with the Administration.

33. Mr Andrew WONG further said that he would move a motion at the Council meeting on 9 June 2004 to extend the scrutiny period of the Regulation to 7 July 2004, to allow more time for the Subcommittee to scrutinize the Regulation and report to the House Committee.

(c) Report of the Subcommittee on Food and Drugs (Composition and Labelling)(Amendment) Regulation 2004

34. Dr LO Wing-lok, Chairman of the Subcommittee, said that he would move a motion at the Council meeting on 9 June 2004 to extend the scrutiny period of the Regulation to 7 July 2004, to allow more time for the Subcommittee to scrutinize the Regulation and report to the House Committee.

VII. Position on Bills Committees/subcommittees

(LC Paper No. CB(2) 2590/03-04)

(Letter dated 1 June 2004 from the Permanent Secretary for Health, Welfare and Food)

35. The Chairman said that there were 14 Bills Committees and seven subcommittees in action. There were also five Bills Committees on the waiting list.

36. The Chairman referred Members to the letter from the Permanent Secretary for Health, Welfare and Food requesting re-activation of the Bills Committee on Human Organ Transplant (Amendment) Bill 2001 which had been held in abeyance. The Chairman said that the Administration was now ready to put forward proposals on the outstanding issue, and it intended to resume Second Reading debate on the Bill on 7 July 2004.

37. The Chairman invited Members to consider whether the Bills Committee on Human Organ Transplant (Amendment) Bill 2001 should be re-activated.

Action

38. Dr LO Wing-lok, Chairman of the Bills Committee on Human Organ Transplant (Amendment) Bill 2001, said that the Bills Committee had largely completed the scrutiny of the Bill. The only outstanding issue was about the mechanisms for granting exemptions to individual organ products from the prohibition against commercial dealings and for hearing appeals in this regard. Dr LO added that the Bills Committee, if re-activated, should be able to complete the scrutiny of the Bill in time for the resumption of the Second Reading debate at the last Council meeting.

39. The Chairman proposed that the Bills Committee should be re-activated. Members agreed.

40. The Chairman, in her capacity as the Chairman of the Bills Committee on Merchant Shipping (Security of Ships and Port Facilities) Bill, reported that the Administration had indicated that it would give notice to resume the Second Reading debate on the Bill at the Council meeting on 23 June 2004.

41. The Chairman explained that to meet the deadline of implementing the new International Ship and Port Facility Security Code of the International Maritime Organization on 1 July 2004, it would be necessary to resume the Second Reading debate on the Bill on 23 June 2004, so that the Bill could be enacted, and the related Regulations made, before 1 July 2004.

42. The Chairman said that the Bills Committee commenced work on 28 May 2004 and would hold further meetings to study the Bill and the proposed Regulations. However, the Bills Committee did not object to the Administration giving notice on 7 June 2004 for resumption of Second Reading debate on 23 June 2004.

43. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 23 June 2004.

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

Proposed amendments to House Rules regarding special forum for presentation of platforms and answering of questions by Members nominated for the office of President

(LC Paper No. CROP 41/03-04)

44. Mr Jasper TSANG, Chairman of CRoP, said that CRoP had considered whether amendments should be made to the House Rules (HR) to provide for the holding of a special forum for presentation of platforms and answering of questions by Members nominated for the office of President of LegCo.

Action

45. Mr Jasper TSANG further said that after considering the arrangement in the first term of LegCo and practices in four overseas legislatures, CRoP recommended that there should be a special forum which was not a Council meeting for the presentation of platforms and answering of questions by the candidates for the office of President. The special forum could take the form of the one held in 1998, and the procedure for the holding of the forum should be provided in HR.

46. Members endorsed CRoP's recommendation in paragraph 10 of the paper and the proposed amendments to HR.

IX. Any other business

47. There being no other business, the meeting ended at 2:56 pm.

Council Business Division 2
Legislative Council Secretariat
9 June 2004