

立法會
Legislative Council

LC Paper No. CB(2) 2806/03-04

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 28th meeting
held in the Legislative Council Chamber
at 3:25 pm on Friday, 11 June 2004**

Members present :

Hon Miriam LAU Kin-yee, JP (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
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon CHAN Kwok-keung, JP
Hon CHAN Yuen-han, 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 Chin-shek, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
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 Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok, JP
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

Members absent :

Hon Fred LI Wah-ming, JP (Deputy Chairman)
Dr Hon Eric LI Ka-cheung, GBS, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon James TO Kun-sun
Hon HUI Cheung-ching, JP
Hon Bernard CHAN, JP
Hon LAU Wong-fat, GBS, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon CHOY So-yuk
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Michael MAK Kwok-fung
Hon LAU Ping-cheung

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
Miss Kathleen LAU	Chief Public Information Officer
Miss Becky YU	Chief Council Secretary (1)1
Mr Andy LAU	Chief Council Secretary (1)2
Mrs Constance LI	Chief Council Secretary (2)5
Mrs Betty LEUNG	Chief Council Secretary (3)1
Ms Bernice WONG	Assistant Legal Adviser 1
Miss Anita HO	Assistant Legal Adviser 2
Ms Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Ms Kitty CHENG	Assistant Legal Adviser 5
Miss Lolita SHEK	Senior Council Secretary (2)7

Action

I. Confirmation of the minutes of the 27th meeting held on 4 June 2004
(LC Paper No. CB(2) 2697/03-04)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that there was nothing special to report.

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)

Wing Hang Bank, Limited (Merger) Bill
(LC Paper No. LS 85/03-04)

3. The Legal Adviser explained that this was a Member's Bill introduced by Dr David LI with the Chief Executive's consent. The Bill provided for the vesting in Wing Hang Bank, Limited of the undertakings of Chekiang First Bank, Limited, and it was similar to other recently enacted bank merger legislation in substance.

4. The Legal Adviser further explained that Dr David LI would move a Committee Stage amendment (CSA) to the Bill, to tie in with the Landlord and Tenant (Consolidation) (Amendment) Bill 2003, the Second Reading debate on which was scheduled to resume on 30 June 2004.

Action

5. The Legal Adviser said that at the meeting of the Panel on Financial Affairs on 1 March 2004, members were briefed on the draft Bill. Panel members expressed support for the proposed merger in general.

6. The Legal Adviser added that no difficulties had been observed in the legal and drafting aspects of the Bill. Subject to Members' views, the Bill was ready for resumption of Second Reading debate.

7. 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 4 June 2004 and tabled in Council on 9 June 2004
(LC Paper No. LS 84/03-04)

8. The Legal Adviser said that there were three items of subsidiary legislation, including two Commencement Notices, gazetted on 4 June 2004 and tabled in Council on 9 June 2004.

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

10. The Chairman said that the deadline for amending these items of subsidiary legislation was 7 July 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 16 June 2004

(a) Questions
(LC Paper No. CB(3) 688/03-04)

11. The Chairman said that Mr Michael MAK had replaced his previous oral question.

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

Supplementary Appropriation (2003-2004) Bill

12. The Chairman said that the Administration had given notice to introduce the above Bill into the Council on 16 June 2004. The House Committee would consider the Bill at its meeting on 18 June 2004.

Action

V. Business for the Council meeting on 23 June 2004

(a) Questions

(LC Paper No. CB(3) 692/03-04)

13. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 23 June 2004.

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

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

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

(i) Buildings (Amendment) Bill 2003

(ii) Merchant Shipping (Security of Ships and Port Facilities) Bill

(iii) Electronic Transactions (Amendment) Bill 2003

15. The Chairman said that Members did not raise objection to the resumption of the Second Reading debate on the three Bills. She added that she would report on the scrutiny of the Merchant Shipping (Security of Ships and Port Facilities) Bill under agenda item VI(f) below.

(d) Government motion

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

(e) Members' motions

(i) Motion on "Appealing to the people to vote enthusiastically in the Legislative Council elections on 12 September"

(Wording of the motion issued vide LC Paper No. CB(3) 695/03-04 dated 9 June 2004.)

(ii) Motion on "Providing appropriate support for aspiring home owners"

(Wording of the motion issued vide LC Paper No. CB(3) 696/03-04 dated 9 June 2004.)

17. The Chairman said that the above motions would be moved by Mr Martin LEE and Mrs Selina CHOW respectively, and the wording of the motions had been issued to Members.

18. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Tuesday, 15 June 2004.

VI. Reports of Bills Committees and subcommittees

(a) Report of the Bills Committee on Construction Workers Registration Bill

(LC Paper No. CB(1) 2065/03-04)

19. Mr CHAN Kwok-keung, Chairman of the Bills Committee, said that the Bills Committee had completed scrutiny of the Bill.

20. Mr CHAN informed Members that the most contentious issue of the Bill was the registration arrangement for senior workers, and the various stakeholders had expressed divergent views on the proposed arrangements.

21. Mr CHAN said that after further consultation, the Administration had proposed a one-off provisional registration arrangement for senior workers. Under the revised proposal, an experienced worker who possessed no less than six years' experience in the respective trade would be allowed to apply for registration as a registered skilled worker (provisional). These workers could obtain registration as registered skilled workers for the trade after they had successfully completed a training course specified by the Construction Workers Registration Authority for the trade, or passed the trade test.

22. Mr CHAN further said the Administration would move CSAs to address various concerns raised by members. While the Bills Committee would not move CSAs to change the registration requirement for senior workers, individual members were considering whether to move CSAs in this regard.

23. Mr CHAN added that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 30 June 2004.

24. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 30 June 2004.

25. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 19 June 2004.

Action

(b) Report of the Bills Committee on United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003

26. Miss Margaret NG reported on behalf of Mr James TO, Chairman of the Bills Committee, that the Bills Committee had completed scrutiny of the Bill and supported the resumption of the Second Reading debate on 30 June 2004. The Bills Committee would provide a written report to the House Committee at the next meeting on 18 June 2004.

27. Miss NG further said that apart from the CSAs to be moved by the Administration, Mr Albert HO and herself would also move CSAs to the Bill.

28. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 30 June 2004.

29. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 19 June 2004.

(c) Report of the Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2003

(LC Paper No. CB(1) 2090/03-04)

30. Ms Audrey EU, Chairman of the Bills Committee, said that the Bills Committee had completed scrutiny of the Bill.

31. Ms EU further said that members of the Bills Committee held divergent views on the proposal in the Bill to remove security of tenure provisions for domestic tenancies under Part IV of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7).

32. Ms EU informed Members that in response to the concern raised by members of the Bills Committee, the Administration had proposed a transitional arrangement for removal of security of tenure, to ensure that there would be sufficient time for tenants to make relocation arrangements. Under such arrangement, a landlord who wished to terminate an existing tenancy must, on or after the tenancy's contractual end date, serve a transitional termination notice on his tenant no less than 12 months before his intended termination date.

33. Ms EU said that in order to protect the underprivileged groups who would be most affected by the proposed removal of security of tenure, Mr Albert HO would move CSAs to retain security of tenure for tenements with Rateable Value (RV) below \$60,000.

Action

34. Ms EU further said that Members belonging to the Liberal Party considered that the RV threshold under Mr HO's proposal was too high, and Mr Howard YOUNG would move CSAs to retain security of tenure for tenements of RV below \$36,000, and extend the period of transitional termination notice served by landlords from 12 months to 36 months. Ms EU added that as the wording of Mr YOUNG's CSAs was not provided to the Bills Committee, it was not attached to the Bills Committee's report.

35. Ms EU said that Mr James TO, Mr Fred LI and Mr Albert HO would separately move CSAs to the effect that any benefits and protection afforded in the tenancy at the time of the tenant's death would also be made available to a sibling (Mr TO's CSAs) and personal representative of the tenant (Mr LI's CSAs), or any person who resided with the tenant at the time of the tenant's death (Mr HO's CSAs).

36. Ms EU added that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 30 June 2004.

37. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 30 June 2004.

38. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 19 June 2004.

39. Ms Emily LAU said that she was not a member of the Bills Committee, but some landlords as well as tenants had reflected to her their concerns about the proposals in the Bill. Ms LAU further said that CSAs proposed by individual Members, in addition to those proposed by the Administration, should also be discussed by the Bills Committee and attached to its report to the House Committee. Ms LAU hoped that all Bills Committees would follow such a practice.

40. The Chairman said that Bills Committees had always followed such a practice. However, as CSAs to be moved by Members were prepared by Members themselves, they might encounter difficulties in the drafting work. She understood that Mr YOUNG had already sought the assistance of the Legal Service Division.

41. Ms Audrey EU said that all the proposed CSAs, except those to be moved by Mr Howard YOUNG, were attached to the report of the Bills Committee. Ms EU further said that Mr YOUNG had explained to the Bills Committee that he had not been able to finalize his CSAs because of some technical difficulties. Nevertheless, the Bills Committee had discussed the main points of Mr YOUNG's proposed amendments.

Action

(d) Report of the Bills Committee on Clearing and Settlement Systems Bill

(LC Paper No. CB(1) 2096/03-04)

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

43. Mr SIN further said that the Bills Committee supported the objectives of the Bill to provide express statutory backing for the oversight role of the Monetary Authority in relation to important clearing and settlement systems in Hong Kong, and for the finality of settlements effected through such systems.

44. Mr SIN said that the Bills Committee had examined in detail the proposed designation and oversight regime, the proposed settlement finality, the appeals mechanism, the offences in the Bill and the extra-territorial application of the Bill.

45. Mr SIN added that to address members' concerns, the Administration had agreed to move CSAs to the Bill. The Bills Committee supported the resumption of the Second Reading debate on the Bill on 30 June 2004.

46. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 30 June 2004.

47. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 19 June 2004.

(e) Report of the Bills Committee on Waste Disposal (Amendment) (No.2) Bill 2003

48. Dr LAW Chi-kwong, Chairman of the Bills Committee, said that the Bills Committee had completed scrutiny of the Bill. However, as the Administration had yet to revert to the Bills Committee on an outstanding issue concerning waste deposited on private land before the enactment of the Bill, the written report would be provided to the House Committee at its next meeting on 18 June 2004.

49. Dr LAW further said that some members of the Bills Committee considered that measures should be put in place to prevent private land from becoming land filling areas or dumping sites of waste. These members had urged the Administration to complete the relevant legislative amendments timely, to tie in with the coming into operation of the Bill.

Action

50. Dr LAW added that to prevent and minimize the production of construction waste by private construction works, members had suggested to include in the Bill punitive measures for indiscriminate demolition of buildings. At members' request, the Administration had agreed to include in the speech to be delivered by the Secretary for the Environment, Transport and Works at the resumption of the Second Reading debate, measures which the Administration would take to address the public concern to discriminate demolition of buildings by developers.

51. Dr LAW said that as the Waste Disposal (Charges for Waste Disposal) Regulation and the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation would be made after the enactment of the Bill, the Bills Committee had also studied the policy aspects of the two Regulations to ensure that they were consistent with the policy intent of the Bill. The Bills Committee recommended the timely establishment of a subcommittee to scrutinize the two Regulations, to ensure that the construction waste disposal charging scheme would be implemented without further delay.

52. Dr LAW added that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 30 June 2004.

53. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 30 June 2004.

54. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 19 June 2004.

(f) Report of the Bills Committee on Merchant Shipping (Security of Ships and Port Facilities) Bill
(LC Paper No. CB(1) 2089/03-04)

55. The Chairman, in her capacity as the Chairman of the Bills Committee, reported that the Bills Committee had completed scrutiny of the Bill.

56. The Chairman said that the Bills Committee had noted that as an associate member of the International Maritime Organization, Hong Kong was obliged to give effect to the new requirements under the International Convention for the Safety of Life at Sea, 1974 and the International Ship and Port Facility Security Code, through domestic legislation, on 1 July 2004. As the new requirements would have to be implemented through the Bill and the Merchant Shipping (Security of Ships and Port Facilities) Rules, members considered that the Administration should have introduced the legislative proposals well in advance to allow sufficient time for Members to scrutinize the proposals.

Action

57. The Chairman further said that the Bills Committee had also examined the draft Merchant Shipping (Security of Ships and Port Facilities) Rules, and had made some suggestions on the drafting of the Rules. The Administration had agreed to make amendments to the Bill and the draft Rules in response to members' concerns.

58. The Chairman added that the Administration had given notice to resume Second Reading debate on the Bill on 23 June 2004. Subject to the passage of the Bill, the relevant Rules to be made by the Secretary for Economic Development and Labour would be published in an extraordinary issue of the Gazette before 30 June 2004 and tabled at the Council meeting on 30 June 2004. The Chairman said that in view of the exceptional circumstances, the Bills Committee did not raise objection to the Administration's proposed legislative timetable.

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

60. Miss Margaret NG expressed dissatisfaction that the Administration had not allowed sufficient time for Members to scrutinize the Bill and the draft Rules, both of which were to come into force on 1 July 2004. Miss NG said that the Bills Committee had adopted a "fast track" approach exceptionally on this occasion, and had also examined the draft Rules in order to ensure that they were in order prior to gazettal. Miss NG said that although members of the Bills Committee did not object to the legislative proposals per se, they had reservations about the way the Administration had handled the Bill and the draft Rules.

(g) Report of the Bills Committee on Road Traffic (Amendment) Bill 2003

(LC Paper No. CB(1) 2068/03-04)

61. The Chairman, in her capacity as the Chairman of the Bills Committee, reported that the Bills Committee had completed scrutiny of the Bill.

62. The Chairman said that the Bills Committee had expressed concern about the various approaches adopted for the definitions of different classes of vehicles under section 2 of the Ordinance. While the Bills Committee supported the Bill, it had requested the Administration to conduct a review to ensure consistency in the drafting of these definitions.

63. The Chairman further said that the Bills Committee supported the Administration's proposal to amend the commencement date of the Bill to 1 August 2004. The Bills Committee also supported the resumption of the Second Reading debate on the Bill on 30 June 2004.

Action

64. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 30 June 2004.

65. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 19 June 2004.

VII. Position on Bills Committees/subcommittees
(*LC Paper No. CB(2) 2702/03-04*)

66. The Chairman said that there were nine Bills Committees and seven subcommittees in action, as well as five Bills Committees on the waiting list.

67. Mr IP Kwok-him said that given that there remained only a few weeks before the last Council meeting, it would not be practicable for any more Bills Committees on the waiting list to be activated, as there would be insufficient time for completion of scrutiny work.

68. The Chairman proposed that no more Bills Committees on the waiting list would be activated in the remainder of the term. Members agreed.

VIII. Allocation of a debate slot to the Select Committee to inquire into the handling of the Severe Acute Respiratory Syndrome outbreak by the Government and the Hospital Authority
(*LC Paper No. CB(2) 2703/03-04*)

69. Dr LAW Chi-kwong, Chairman of the Select Committee, said that the paper invited the House Committee to consider the Select Committee's request for allocation of a debate slot to the Chairman of the Select Committee to move a motion on its Report, for debate at the Council meeting of 7 July 2004.

70. Dr LAW Chi-kwong further said that the Select Committee requested that -

- (a) the House Committee recommend to the President under rule 13(a) of the House Rules, for three debates on Members' motions to be held at the Council meeting of 7 July 2004, and to allocate one of the debate slots to Dr LAW Chi-kwong to move the motion for debate, on behalf of the Select Committee; and
- (b) similar to the previous two debates on reports of select committees, the speaking time limit would be 15 minutes for each Member.

Action

71. Referring to the recent incident of unauthorized disclosure of information, Ms Emily LAU said that she hoped the Select Committee would deal with the matter satisfactorily to uphold its credibility. Ms LAU also requested that the Report of the Select Committee be made available to Members and the public early, to allow time for Members to prepare for the debate on the Report at the Council meeting of 7 July 2004.

72. Mr NG Leung-sing said that there was public concern about the incident which had affected the credibility of both the Select Committee and LegCo. He hoped the Select Committee could satisfactorily address such concern. He further said that as the Report of the Select Committee would pinpoint responsibility, it was necessary to allow time for Members to digest the contents of the report before the debate.

73. Dr LAW Chi-kwong said that the Select Committee had been working under a very tight time schedule, and it would make its best efforts to complete and present the Report to the Council by 5 July 2004.

74. Members agreed to the Select Committee's requests in paragraphs 5 and 7 of the paper.

IX. Any other business

Valedictory motion

75. The Chairman invited Members to consider whether a valedictory motion debate, in addition to the debates on two Members' motions and the motion on the Select Committee's Report, should be held at the Council meeting of 7 July 2004.

76. Ms Emily LAU said that she had no objection to the proposal of having a valedictory motion. However, in view of the long agenda for the last Council meeting of 7 July 2004, she suggested that perhaps only one Member's motion debate, in addition to the motion debate on the Select Committee's Report, should be held at the meeting. Ms LAU added that the Panel on Home Affairs was also considering the proposal to request for a debate slot for its Chairman to move a motion for debate at the Council meeting of 7 July 2004.

77. The Chairman said that if the Panel on Home Affairs wished to request for allocation of a debate slot, the request could be considered at the next House Committee meeting.

Action

78. Mr IP Kwok-him expressed reservation about Ms LAU's suggestion of allocating only one debate slot for Member's motion at the Council meeting of 7 July 2004. Mr IP said that many Members had already made applications for allocation of debate slots of that meeting.

79. The Chairman proposed that a valedictory motion be moved at the Council meeting of 7 July 2004. Members agreed. The Chairman added that the wording of the motion, which was tabled at the meeting, could be finalized at the next House Committee on 18 June 2004.

80. There being no other business, the meeting ended at 4:20 pm.

Council Business Division 2
Legislative Council Secretariat
16 June 2004