

**立法會**  
**Legislative Council**

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**Finance Committee of the Legislative Council**

**Minutes of the 11th meeting  
held at the Legislative Council Chamber  
on Friday, 19 May 2006, at 2:30 pm**

**Members present:**

Hon Emily LAU Wai-hing, JP (Chairman)  
Hon CHAN Kam-lam, SBS, JP (Deputy Chairman)  
Hon James TIEN Pei-chun, GBS, JP  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Dr Hon David LI Kwok-po, GBS, JP  
Hon Fred LI Wah-ming, JP  
Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon CHAN Yuen-han, JP  
Hon Bernard CHAN, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon LEUNG Yiu-chung  
Hon SIN Chung-kai, JP  
Dr Hon Philip WONG Yu-hong, GBS  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Howard YOUNG, SBS, JP  
Dr Hon YEUNG Sum  
Hon LAU Chin-shek, JP  
Hon LAU Kong-wah, JP  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon Miriam LAU Kin-yee, GBS, JP  
Hon CHOY So-yuk, JP

Hon Andrew CHENG Kar-foo  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon LI Fung-ying, BBS, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip  
Hon Frederick FUNG Kin-kee, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Vincent FANG Kang, JP  
Hon WONG Kwok-hing, MH  
Hon LEE Wing-tat  
Dr Hon Joseph LEE Kok-long  
Hon Daniel LAM Wai-keung, BBS, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Dr Hon KWOK Ka-ki  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon CHEUNG Hok-ming, SBS, JP  
Hon WONG Ting-kwong, BBS  
Hon Ronny TONG Ka-wah, SC  
Hon Patrick LAU Sau-shing, SBS, JP  
Hon Albert Jinghan CHENG  
Hon KWONG Chi-kin  
Hon TAM Heung-man

**Members absent:**

Dr Hon LUI Ming-wah, SBS, JP  
Hon WONG Yung-kan, JP  
Hon LI Kwok-ying, MH  
Hon MA Lik, GBS, JP  
Hon LEUNG Kwok-hung  
Hon CHIM Pui-chung

**Public officers attending:**

Mr Frederick MA Si-hang, JP

Secretary for Financial Services and the Treasury

Mr Alan LAI Nin, GBS, JP

Permanent Secretary for Financial Services and the Treasury (Treasury)

Miss Amy TSE, JP

Deputy Secretary for Financial Services and the Treasury (Treasury) 1

Mr Alfred FOK	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Ms Carol YUEN	Deputy Secretary for Security 2
Mr Charles WONG	Principal Assistant Secretary for Security B
Mr Aaron Y C CHEUNG	Chief Fire Officer (Headquarters) Fire Services Department
Mr CHICK King-fai	General Manager/Government Dockyard Marine Department
Mr WONG Chi-kin	Senior Surveyor of Ships/Government New Construction Section Marine Department
Miss Vivian LAU	Deputy Secretary for Education and Manpower
Mr LI Wing	Controller, Student Financial Assistance Agency
Mr Andrew WONG, JP	Permanent Secretary for the Civil Service
Mr K S SO	Deputy Secretary for the Civil Service 2
Mr Ian WINGFIELD, GBS, JP	Law Officer (International Law) Department of Justice

**Clerk in attendance:**

Miss Becky YU	Chief Council Secretary (1)1
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**Staff in attendance:**

Mrs Mary TANG	Senior Council Secretary (1)2
Ms Alice CHEUNG	Senior Legislative Assistant (1)1
Mr Frankie WOO	Legislative Assistant (1)2

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**Item No. 1 - FCR(2006-07)6**

**RECOMMENDATIONS OF THE ESTABLISHMENT SUBCOMMITTEE  
MADE ON 3 MAY 2006**

The Chairman put FCR(2006-07)22 except EC(2006-07)2 and EC(2006-07)4 to the vote. The Committee approved the proposal.

**EC(2006-07)2 Proposed creation of one supernumerary post of Administrative Officer Staff Grade C (D2) in the Central Policy Unit under the Offices of the Chief Secretary for Administration and the Financial Secretary of Government Secretariat with immediate effect up to 30 June 2007 to strengthen the Secretariat to the Commission on Strategic Development**

2. Mr CHEUNG Man-kwong said that while Members of the Democratic Party (DP) had expressed their views at the meeting of the Establishment Subcommittee (ESC) on 3 May 2006, he wished to state for the record that DP Members did not consider it justified to create an additional D2 directorate post as there were already two directorate posts within the establishment of the Secretariat to the Commission on Strategic Development (CSD). Given the existing workload of the Secretariat to CSD, the proposed creation of post would not be a prudent use of public resources nor fair to other departments. Therefore, he had requested for separate voting on the proposal when it was submitted to the Finance Committee (FC). He added that DP Members would vote against the proposal. Miss TAM Heung-man also said that she would vote against it.

3. Mr James TIEN said that Members of the Liberal Party would support the proposal which had been deliberated at length by ESC and was voted on and endorsed at its meeting on 3 May 2006, albeit the decision was not binding on FC.

4. Ms Audrey EU declared that she was a member of CSD. She said that Mr Alan LEONG had already indicated at the ESC meeting on 3 May 2006 that the Civic Party would object to the proposal. As the creation of an additional directorate post for the Secretariat to CSD was not considered justified, Members of the Civic Party would vote against the proposal.

5. The Chairman put EC(2006-07)2 to the vote. 24 members voted for the proposal, 18 members voted against. The individual results were as follows:

*For :*

Mr James TIEN Pei-chun	Ir Dr Raymond HO Chung-tai
Mrs Selina CHOW LIANG Shuk-yee	Miss CHAN Yuen-han
Mr CHAN Kam-lam	Dr Philip WONG Yu-hong
Mr Jasper TSANG Yok-sing	Mr Howard YOUNG
Mr LAU Kong-wah	Mr LAU Wong-fat
Ms Miriam LAU Kin-yee	Miss CHOY So-yuk
Mr Timothy FOK Tsun-ting	Mr TAM Yiu-chung
Ms LI Fung-ying	Mr Tommy CHEUNG Yu-yuan
Mr Vincent FANG Kang	Mr WONG Kwok-hing
Mr Jeffrey LAM Kin-fung	Mr Andrew LEUNG Kwan-yuen
Mr CHEUNG Hok-ming	Mr WONG Ting-kwong
Mr Patrick LAU Sau-shing	Mr KWONG Chi-kin

(24 members)

*Against :*

Mr LEE Cheuk-yan  
Mr Fred LI Wah-ming  
Mr James TO Kun-sun  
Mr LEUNG Yiu-chung  
Dr YEUNG Sum  
Mr Frederick FUNG Kin-kee  
Mr LEE Wing-tat  
Mr Alan LEONG Kah-kit  
Mr Ronny TONG Ka-wah  
(18 members)

Mr Martin LEE Chu-ming  
Ms Margaret NG  
Mr CHEUNG Man-kwong  
Mr SIN Chung-kai  
Mr Andrew CHENG Kar-foo  
Ms Audrey EU Yuet-mee  
Dr Joseph LEE Kok-long  
Dr Fernando CHEUNG Chiu-hung  
Miss TAM Heung-man

6. The Committee approved the proposal.

**EC(2006-07)4 Proposed creation of one permanent post of Assistant Director of Accounting Services (D2) in Leisure and Cultural Services Department to oversee the Finance and Supplies Division; and downgrading of one permanent post from the Senior Principal Executive Officer (D2) to Principal Executive Officer (D1) to undertake the duties of the Departmental Secretary with immediate effect**

7. As the post to be created would be responsible for contract management and facilitating outsourcing of public services, Mr WONG Kwok-hing said that Members of the Hong Kong Federation of Trade Unions would be objecting to the proposal.

8. The Chairman put EC(2006-07)4 to the vote. 30 members voted for the proposal, 11 members voted against and one member abstained. The individual results were as follows:

*For :*

Mr James TIEN Pei-chun  
Ir Dr Raymond HO Chung-tai  
Mr Fred LI Wah-ming  
Mr James TO Kun-sun  
Mr Bernard CHAN  
Mrs Sophie LEUNG LAU Yau-fun  
Dr Philip WONG Yu-hong  
Mr Howard YOUNG  
Mr LAU Kong-wah  
Ms Miriam LAU Kin-yee  
Mr Andrew CHENG Kar-foo  
Mr Vincent FANG Kang  
Dr Joseph LEE Kok-long  
Mr Andrew LEUNG Kwan-yuen  
Mr WONG Ting-kwong  
(30 members)

Mr Albert HO Chun-yan  
Mr Martin LEE Chu-ming  
Mrs Selina CHOW LIANG Shuk-yee  
Mr CHEUNG Man-kwong  
Mr CHAN Kam-lam  
Mr SIN Chung-kai  
Mr Jasper TSANG Yok-sing  
Dr YEUNG Sum  
Mr LAU Wong-fat  
Miss CHOY So-yuk  
Mr Tommy CHEUNG Yu-yan  
Mr LEE Wing-tat  
Mr Jeffrey LAM Kin-fung  
Mr CHEUNG Hok-ming  
Mr Patrick LAU Sau-shing

*Against :*

Mr LEE Cheuk-yan	Miss CHAN Yuen-han
Mr LEUNG Yiu-chung	Ms LI Fung-ying
Mr Frederick FUNG Kin-kee	Ms Audrey EU Yuet-mee
Mr WONG Kwok-hing	Mr Alan LEONG Kah-kit
Dr Fernando CHEUNG Chiu-hung	Mr KWONG Chi-kin
Miss TAM Heung-man	
(11 members)	

*Abstention :*

Mr TAM Yiu-chung  
(1 member)

9. The Committee approval the proposal.

**Item No. 2 - FCR(2006-07)7**

**RECOMMENDATIONS OF THE PUBLIC WORKS SUBCOMMITTEE  
MADE ON 26 APRIL 2006**

10. The Chairman put the item to vote. The Committee approved the proposal.

**Item No. 3 - FCR(2006-07)8**

**HEAD 45 – FIRE SERVICES DEPARTMENT**

♦ **Subhead 603 Plant, vehicles and equipment**

11. The Chairman said that the Security Bureau circulated an information paper on the proposal to the Panel on Security on 4 April 2006.

12. Mr James TO said that there was no request from members of the Panel on Security for discussion of the proposal. He did not envisage any objection from Panel members to the proposal.

13. Mr WONG Kwok-hing enquired if the replacement fireboat could be manufactured in Hong Kong so that more employment opportunities could be created for the local workforce. In fact, he had relayed similar request to the Secretary for Financial Services and the Treasury earlier. The Deputy Secretary for Security 2 said that being a member of the World Trade Organization (WTO), Hong Kong had to abide by the principles of the WTO Agreement on Government Procurement. As the cost of procuring the replacement fireboat was \$13 million which was higher than the exempted value under the WTO Agreement, the Marine Department would have to

procure the fireboat through public tender. According to past experience, quite a number of such contracts for the manufacture of fireboats were awarded to local ship builders.

14. Mr WONG Kwok-hing was concerned that non-local ship builders who had access to cheap labour would have an advantage over local ship builders in securing the manufacturing contract through open tender. This would reduce the employment opportunities of local workers. The General Manager/Government Dockyard said that while the outcome of open tender was unknown, local ship builders would likely have an edge over their non-local counterparts as the tender would require an efficient after-sales service which was in favour of local contractors. Furthermore, local ship builders would be more competitive in terms of pricing since they would save on the cost of delivery of the vessel.

15. Mr WONG Kwok-hing remained of the view that the Administration should endeavour to enhance the chances of local shipbuilders in securing the contract. He also called upon the Financial Services and the Treasury Bureau to take into account the need for creation of employment opportunities for the local workforce in Government procurement.

16. The Chairman put the item to vote. The Committee approved the proposal.

#### **Item No. 4 - FCR(2006-07)9**

#### **HEAD 173 – STUDENT FINANCIAL ASSISTANCE AGENCY**

##### **♦ Subhead 228 Student financial assistance**

#### **LOAN FUND**

#### **HEAD 254 – LOANS TO STUDENTS**

##### **♦ Subhead 102 Non-means-tested loan scheme**

17. The Chairman informed members that the Panel on Education was consulted on the proposal at its meeting on 27 March 2006.

18. Dr YEUNG Sum, Chairman of Panel on Education, said that the Panel was in general supportive of the proposal to improve the Financial Assistance Scheme for Post-secondary Students (FASP). The education groups attended the Panel meeting on 27 March 2006 to express their views on the review of the post-secondary education sector and further requested for harmonization of FASP for students of self-financing post-secondary programmes and the Local Student Finance Scheme (LSFS) for students of publicly-funded post-secondary programmes to ensure that needy students of self-financing post-secondary programmes were given the same financial assistance to meet basic living expenses as their counterparts in publicly-funded post-secondary programmes. Hence, a further review of the inequity between FASP and LSFS might be necessary.

Financial burden on sub-degree students due to high interest rates of NLSPS

19. Mr CHEUNG Man-kwong opined that there should not be any differential treatment between students of self-financing sub-degree programmes and students of publicly-funded post-secondary programmes. It was unfair to students of self-financing sub-degree programmes who had to pay for their tuition and were not eligible for financial assistance to meet basic living expenses. As a result, these students had to apply for the Non-means Tested Loan Scheme for Post-secondary Students (NLSPS) to finance their studies at an unreasonably high interest rate of 7.359%. In this connection, the Council had passed a motion urging for the harmonization of FASP and LSFS to ensure equal treatment for all full-time students at its meeting on 10 May 2006. The Administration should follow up on the motion and take steps to review the student financial assistance schemes with a view to removing the inequity and lowering the interest rate.

20. Miss TAM Heung-man shared the view that the proposal was not entirely satisfactory, especially with reference to the high interest rate of over 7% for the loans under NLSPS. Students graduating from sub-degrees would find themselves in heavy debt to the Government as a result of NLSPS. She opined that sub-degree students had not been fairly treated in the provision of financial assistance, particularly when their pursuit of sub-degrees might not have facilitated them in finding employment. She considered it necessary that the Administration should make efforts to address the plight of students pursuing the self-financing sub-degree programmes. Sharing similar concern, Mr WONG Kwok-hing said that the high interest rate under NLSPS would be a great burden to students, and that the Administration should consider lowering the interest rate to bring it on par with that of savings accounts by cutting the administrative cost involved.

21. In response, the Deputy Secretary for Education and Manpower (DSEM) explained that the interest rate under NLSPS was determined on a “no gain no loss” and cost recovery basis. Since applicants under NLSPS were not required to undergo means test, the interest rate applied was considered appropriate. The Secretary for Financial Services and the Treasury said that students who applied for commercial loans from banks would unlikely be able to enjoy the current interest rate offered under NLSPS, given that the prime interest rate was already over 8%. Besides, the loans were non-means tested which implied that students could apply for the loans irrespective of their financial position.

Financial assistance to needy students under the self-financing sub-degree programmes

22. As students under self-financing sub-degree programmes had outnumbered those under publicly-funded post-secondary programmes, Dr YEUNG Sum urged the Administration to undertake a further review on the financial assistance offered to students pursuing the self-financing sub-degree programmes after the approval of the present proposal so that all students would be equally treated and provided with the same level of assistance according to their financial needs.

23. DSEM said that the proposed improvements to the means-tested grant under FASP and the increase in the maximum loan ceiling under NLSPS had already incurred a heavy financial commitment on the part of the Administration. The expenditure incurred for means-tested grants under FASP for the 2005/06 had amounted to \$215 million. If the proposed improvements were approved, an additional expenditure of \$320 million was expected to be incurred starting September 2006. The number of students benefiting from FASP would also be increased from 5 200 to about 18 000. As the proposed improvements would bring the means-tested grant under FASP on par with that of LSFS by applying the same 17-tier sliding scale for determining the grant level for each applicant, the less needy students of self-financing sub-degree programmes who would otherwise not be eligible for any grants under the existing FASP would be able to receive grants to finance their studies. The proposed improvements would bring significant financial relief to students. Members' proposal of providing assistance to meet the basic living expenses of needy students pursuing self-financing sub-degree programmes would carry serious financial implications, given the large number of students involved. The Administration would take into account members' views in Phase 2 of the review of post-secondary education sector based on the availability of funds and competing priorities of different education sectors.

24. Mr CHEUNG Man-kwong noted that the original intention of withdrawing the subvention from previously publicly-funded sub-degree programmes was to plough back the savings into the sub-degree sector to enhance the financial assistance for needy students. However, students of sub-degree programmes still had to pay for their own studies and were not eligible for financial assistance to meet their basic living expenses. Dr Fernando CHEUNG was also concerned that the Administration had not provided the number of sub-degree places which had been phased out by the end of the withdrawal programme.

25. DSEM said that the savings of about \$470 million from the withdrawal programmes had been used to provide assistance in the form of grants to the needy students. The estimated total expenditure arising from the proposed improvements to FASP would be around \$780 million in 2010/11 with regard to student enrolment projections. Hence, the savings from the withdrawal programmes had been completely ploughed back to the sub-degree sector as pledged. She added that while the Government had been gradually withdrawing its subvention of sub-degree programmes, it had not yet completed the withdrawal from the agreed number of sub-degree programmes as agreed with the University Grants Committee and the Vocational Training Council. She also undertook to provide the number of sub-degree places which had been phased out by the end of the withdrawal programme.

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26. Mr CHEUNG Man-kwong pointed out that the post-secondary participation rate had increased from about 33% in the 2000/01 academic year to about 66% in the 2005/06 academic year. This had exceeded the Government's target set out in 2000 that 60% of senior secondary school leavers would receive tertiary education

within 10 years. Under the circumstances, more funding should be earmarked for the post-secondary sector. The proposed improvements to FASP had not completely removed the inequity between assistance given to students of self-financing sub-degree programmes and those of publicly-funded post-secondary programmes. In the latter case, students were able to enjoy more grants to cover their tuition fees and academic expenses. However, for students of self-financed post-secondary programmes, almost one-third of the tuition fees they paid were used to repay the start-up loans for the institutions. He requested to put on record his request for the same level of financial assistance to be given to students pursuing self-financing sub-degree programmes and students pursuing publicly-funded post-secondary programmes according to their financial needs.

#### Processing of applications

27. Mr Albert CHAN noted that some students were not allocated the needed financial assistance within the academic year on account of their failure to complete the application process in time, which in some cases were due to the delayed submission of the correct proofs in support of their application. He requested that the application process be streamlined so that students would not be deprived of the assistance they deserved. DSEM said that students who had submitted their applications for the academic year and were able to prove their eligibility for the financial assistance, albeit late submission of such proofs, would be provided with the appropriate grants/loans within the academic year. The Controller, Student Financial Assistance Agency (SFAA) said that SFAA had been advising students on their applications and processing them expeditiously. He took note of members' views and would examine the possibility of streamlining the procedures.

#### Students' representation in Joint Committee on Student Finance

28. While the current proposal was far from satisfactory, Dr Fernando CHEUNG said that he had no choice but to support it as otherwise no improvements could be made to the existing FASP which provided no grants to students whose monthly family income exceeded \$8,000. He also noted that the education groups had requested for expansion of the terms of reference of the Joint Committee on Student Finance to cover self-financing sub-degree programmes with student representatives from these programmes to be included in the Joint Committee.

29. DSEM said that the Joint Committee was responsible for providing advice to the Administration on the operation of LSFS and Non-means-tested Loan Scheme. As there were already close to 30 members in the Joint Committee with 10 representatives from publicly-funded post-secondary institutions and 10 student representatives, any further increase in the membership of the Joint Committee might have an adverse impact on its operation. The request for sub-degree students to be represented in the Joint Committee had to be carefully considered. Dr Fernando CHEUNG however found it absurd that students pursuing self-financing sub-degree programmes, who had outnumbered students pursuing public-funded

post-secondary programmes, were not represented in the Joint Committee. In response, DSEM said that the Administration had maintained close liaison with the post-secondary institutions and students of self-financing sub-degree programmes and their views had been fully considered by the Administration. The Administration would continue to maintain close liaison with the student groups concerned.

Quality assurance of post-secondary programmes

30. Miss TAM Heung-man was concerned about the need for the quality assurance of the post-secondary programmes, which should best be monitored by an independent body appointed by Government. DSEM said that quality assurance was of major concern. The Heads of Universities Committee, for example, had established the independent Joint Quality Review Committee (JORC) to upkeep and sustain the quality of their self-financing sub-degree programmes. JORC would ensure comparability in quality and standards of programmes at the same academic level and the Administration had found the present arrangement acceptable.

31. Mrs Selina CHOW said that LP Members were in support of the proposed improvements to the provision of financial assistance to students pursuing self-financing post-secondary programmes as these would provide them with more opportunities. LP Members would also support further improvements to the student financial assistance schemes subject to the availability of resources.

32. Ms Audrey EU said that Members of the Civic Party would support improvements to the existing FASP and would look forward to further improvements to harmonize FASP and LSFS under Phase 2 of the review of the post-secondary education sector. DSEM said that Phase 2 of the review would be completed in about one year's time.

33. The Chairman put the item to vote. The Committee approved the proposal.

**Item No. 5 - FCR(2006-07)10**

**HEAD 46 – GENERAL EXPENSES OF THE CIVIL SERVICE**

- ◆ **Subhead 013 Personal Allowances**
- ◆ **Subhead 022 Passages**
- ◆ **Subhead 023 Quarters**
- ◆ **Subhead 032 Accommodation Allowance Scheme**
- ◆ **Subhead 038 Private Tenancy Allowance**
- ◆ **Subhead 040 Non-accountable Cash Allowance Scheme**

34. The Chairman informed members that the Panel on Public Services was consulted on the proposal at its meeting on 20 April 2006.

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35. Mr TAM Yiu-chung, Chairman of the Panel on Public Services, said that the Panel raised no objection to the final package of change proposals resulting from the review of fringe benefit type of allowances for the civil service. However, there was concern about the legality of the unilateral variation of the allowances which had been challenged by staff associations before. According to the Civil Service Bureau (CSB), legal advice from the Department of Justice (DoJ) had confirmed that the final package of change proposals was lawful and could be implemented under the unilateral variation clause without the enactment of legislation. CSB assured the Panel that the package as proposed was lawful, fair and reasonable.

36. The Chairman drew members' attention to the letter from the Police Force Council Staff Associations to the Secretary for the Civil Service which was copied to members vide LC paper No. FC 69/05-06. To address the Association's concern about possible breach of Article 100 of the Basic Law (BL 100) by the Administration in introducing the final package of change proposals, the Law Officer (International Law) (LO(IL)) had been invited to attend the meeting.

37. LO(IL) said that when the interpretation of BL 100 was considered in the context of the two pieces of legislation regarding the reduction of civil servants' pay, members' attention was drawn to the provision in the contracts of civil servants regarding the unilateral right of the Government to alter any of the terms of employment and conditions of service. However, as pay was a fundamental part of the contract, DoJ held the view that it would not be safe to use the unilateral variation clause for the purpose of pay reduction. In considering the meaning and effect of BL 100, the Court of Final Appeal (CFA) endorsed on July 2005 the view of the Court of First Instance that BL 100 was of a transitional nature which was meant to ensure continuity of employment so that no civil servant would suffer as a consequence of the transition itself. CFA also confirmed that the legislative power conferred before 1997 had equal application after 1997 in relation to civil service terms and conditions of service, and the same would apply to the unilateral variation clause. In this instance, the entitlements set out in the contracts were those reflected in the Civil Service Regulations, and the ceilings for education allowances were those set out in the Schedule of the Regulations. It was those rights which were being safeguarded and as such, civil servants would continue to receive the allowances payable in 1997 as a protected right. It was on this basis that DoJ had advised that the package of change proposals was lawful and consistent with BL 100, and that the unilateral variation clause could be used to vary the allowances and the mechanisms by which these were adjusted.

38. The Permanent Secretary for the Civil Service (PSCS) said the Administration was aware that the proposed package would not be well accepted by all staff associations. Notwithstanding, it had consulted staff associations on the proposal in September 2005. Advice from the advisory bodies on civil salaries and conditions of service had also been sought. The final package submitted to the Finance Committee had been suitably revised taking into account the views received and was considered lawful, fair and reasonable. Given that some of the allowances

provided to civil servants had become out of step with present day circumstances, and that new recruits were not eligible for these outdated allowances, there was a need to control Government expenditure by capping some of the allowances until these were phased out after retirement of the existing claimants.

39. While agreeing to the need for adjusting some of the allowances which were outdated, Ms Margaret NG found it difficult to accept the advice given by DoJ. According to DoJ, the unilateral variation clause should not be applied for the purpose of pay reduction as pay was a fundamental part of the civil service contract. If this was the case, the same should apply to allowances, in particular education and housing allowances which also formed a significant part of a civil servant's pay. She enquired whether the CFA judgement made in July 2005 had made reference to the adjustment of civil service allowances. LO(IL) responded that CFA had not ruled on the question of civil service allowances because this was not an issue at that time. Although education allowance was significant in terms of the amount payable to an individual officer, it was not a fundamental part of the contract as compared to the pay itself. Besides, there were only a small percentage of eligible officers who received education allowance, the majority of whom did not receive any such allowance.

40. Ms Margaret NG considered it inappropriate to conclude that education allowance was not fundamental simply because the majority of civil servants did not receive the allowance. LO(IL) clarified that while a large numbers of officers were eligible for education allowance, very few had made their claim. Of the 120 000 eligible officers, only 3% to 4% had claimed overseas education allowances (OEA). This would justify the conclusion that education allowance was not fundamental to the contract in respect of those who were eligible for the allowance.

41. As education allowance would mean a lot to those officers who claimed it, Ms Margaret NG enquired if the proposed adjustment would create practical difficulties to them and if so, the assistance which would be offered by the Administration. PSCS said that at present, there were 120 000 and 150 000 officers who were eligible for OEA and local education allowance (LEA) respectively. Of the 150 000 eligible officers, only 12% had claimed LEA. Based on past figures, there had been significant growth in expenditure associated with OEA and LEA. In view of the significant expenditure involved, new civil servants recruited from 1 August 1996 and 1 June 2000 onwards were no longer eligible for OEA and LEA respectively. He added that while the ceiling rates of OEA would be adjusted to the level as at 30 June 1997 for new claimants who started to draw OEA from 2006/07 or the 2007 school year onwards, the current OEA ceiling rates would continue to apply to existing claimants so as to minimize the possible disruption that might be caused to the schooling arrangements which were already made. In this way, eligible officers who intended to send their children abroad for overseas studies would need to assess the financial implications before making their decisions.

Action

42. Ms Margaret NG said that Members of the Civic Party were well aware of Government's objectives, but the proposed changes involved legal issues which had yet to be clarified. There was also concern on the impact which the proposed changes to the OEA ceiling rates might have on the schooling plans of eligible claimants. Hence, Members of the Civic Party would abstain from voting.

43. Dr KWOK Ka-ki opined that officers eligible for OEA preferred to send their children abroad for overseas studies because they did not have confidence in the local education system as a result of the education reform. As such, Government expenditure in respect of OEA was expected to increase in the years to come. He enquired about the amount of expenditure to be incurred if all eligible civil servants would apply for OEA. He also noted that with the reunification with the Mainland, many of the civil servants would prefer to send their children to the Mainland to further their studies but this could not be covered under OEA or LEA. He asked if the Administration would review the present policy on education allowances with a view to removing this inequity.

44. PSCS said that as OEA and LEA were included in the contract terms of civil service officers recruited before 1 August 1996 and 1 June 2000 respectively, the Government would have to abide by these terms and could not abolish them regardless how outdated these might be. On the other hand, it would not seek to expand the scope of these allowances as this was not in line with the purpose of the allowance review, which was to enhance control over Government expenditure on these allowances. He added that it would be up to individual civil servants to decide on the education plans for their children. A total of 120 000 officers were eligible to apply for OEA. However, it was worth-noting that more savings could be achieved through the package of change proposals if there were more OEA applications.

45. Dr KWOK Ka-ki however considered it unfair that OEA was still being provided to eligible claimants seeking overseas education in different countries such as South Africa, Singapore and United States, but not the Mainland. He sought the Administration's explanation on its course of action in case such a policy was being challenged by eligible officers who chose to apply OEA for their children seeking education in the Mainland. PSCS said that as OEA and LEA were not in step with present day circumstances and would be phased out over time, consideration would not be given to expanding their scope of application.

46. Mr Howard YOUNG said that LP Members welcomed the review of fringe benefit type allowances with a view to abolishing those that were outdated. While acknowledging the disappointment of civil service associations towards the proposed package which would reduce their fringe benefits, there was a need ensure prudent use of public money and the interests of tax payers. LP Members would support the proposal which would enhance control over Government expenditure and streamline the payment of allowances. They were also pleased to note that the proposal had not contravened BL 100.

47. Miss TAM Heung-man enquired about the savings which would be derived from the proposed changes to the civil service allowances, and whether these savings were based on the assumption that 3% to 4% of the 120 000 eligible officers applied for OEA and 12% of the 150 000 eligible officers applied for LEA. Referring to Enclosure 3 to the Administration's paper which set out the estimated savings for the first year and over the next five years, PSCS said that the savings were based on the past trend of applications for OEA and LEA and would depend on the number of eligible serving officers applying for OEA and LEA.

48. In response to Miss TAM Heung-man's further enquiry on the consultation with staff associations and the measures taken to address their concerns, PSCS said that the staff side was consulted on the package of change proposals vide a consultation note issued on 22 September 2005. A total of 28 submissions from individual staff and staff associations were received by the end of consultation exercise in November 2005. The views received were vast and varied. Some opposed to any change to the allowances under review. One of the major concerns raised was whether the OEA rates were payable in foreign currencies or Hong Kong dollars. To address the concern about currency fluctuations, it was proposed that the OEA rates would be set in the relevant foreign currencies despite that actual disbursement of the allowance would be made in Hong Kong dollars so that staff would not have to bear the exchange rate risk. The final package submitted before the Finance Committee had been suitably revised taking into account the views received.

49. The Chairman put the item to vote. The Committee approved the proposal.

50. The meeting was adjourned at 4:03 pm.