

立法會
Legislative Council

LC Paper No. CB(2) 2888/05-06

Ref : CB2/H/5/05

House Committee of the Legislative Council

**Minutes of the 31st meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 21 July 2006**

Members present :

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon David LI Kwok-po, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, GBS, JP
Hon LEUNG Yiu-chung
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 Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon LI Kwok-ying, MH, JP
Dr Hon Joseph LEE Kok-long, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon CHIM Pui-chung
Hon Albert Jinghan CHENG

Members absent :

Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, JP
Hon LAU Wong-fat, GBM, GBS, 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 Audrey EU Yuet-mee, SC, JP
Hon MA Lik, GBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
Hon TAM Heung-man

Clerk in attendance :

Mrs Justina LAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP	Secretary General
Mr Jimmy MA, JP	Legal Adviser
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)
Miss Kathleen LAU	Chief Public Information Officer
Miss Odelia LEUNG	Chief Council Secretary (2)6
Ms Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Miss Kitty CHENG	Assistant Legal Adviser 5
Ms Amy YU	Senior Council Secretary (2)3

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I. Confirmation of the minutes of the 30th meeting held on 7 July 2006
(LC Paper No. CB(2) 2777/05-06)

The minutes were confirmed.

II. Matters arising

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

Legislative Programme

2. The Chairman said that she had pointed out to CS that the Administration had not introduced the Prevention of Bribery (Amendment) Bill 2006, although it had undertaken to do so in the current session. She had reminded the Administration to better plan its Legislative Programme and to avoid bunching, particularly in the last session of the term.

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)

Unsolicited Electronic Messages Bill
(LC Paper No. LS 93/05-06)

3. The Chairman said that the Bill sought to regulate the sending of unsolicited electronic messages of a commercial nature. The Panel on Information Technology and Broadcasting had been consulted on the proposals, and members had raised various concerns.

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4. Ms Emily LAU said that a Bills Committee should be formed to study the Bill.

5. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr James TO, Mr SIN Chung-kai (as advised by Mr James TO), Mr Howard YOUNG, Ms Emily LAU and Mr WONG Ting-kwong.

(b) Legal Service Division report on subsidiary legislation gazetted on 7 July 2006 and tabled in Council on 10 July 2006

(LC Paper No. LS 96/05-06)

6. The Chairman said that there were 11 items of subsidiary legislation gazetted on 7 July 2006 and tabled in Council on 10 July 2006.

7. Regarding the Public Health (Animals and Birds) (Exhibitions) (Amendment) Regulation 2006, the Chairman said that the Administration had consulted the Panel on Food Safety and Environmental Hygiene on the proposed licence fees. Some members considered that the proposed licence fees were on the high side.

8. Mr CHEUNG Hok-ming said that as the public had raised concern about the significant difference between the existing and the proposed licence fees, a subcommittee should be formed to study the Amendment Regulation.

9. The Chairman proposed that a subcommittee be formed to study the Amendment Regulation in detail. Members agreed. The following Members agreed to join: Mr Fred LI, Mr Tommy CHEUNG, Mr LEUNG Kwok-hung and Mr CHEUNG Hok-ming.

10. Regarding the Food Business (Amendment) Regulation 2006, the Chairman said that the Panel on Food Safety and Environmental Hygiene had discussed the legislative proposal. The affected trades and some members had expressed grave concern about the proposal.

11. Mr Tommy CHEUNG said that as the legislative proposal affected various trades, a subcommittee should be formed to study the Amendment Regulation.

12. The Chairman proposed that a subcommittee be formed to study the Amendment Regulation in detail. Members agreed. The following Members agreed to join: Mr Fred LI, Mr Tommy CHEUNG and Mr Vincent FANG.

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13. Members did not raise any queries on the other nine items of subsidiary legislation.

IV. Further report by the Legal Service Division on outstanding bill

Hong Kong Society for the Protection of Children Incorporation (Amendment) Bill 2006

(LC Paper No. LS 94/05-06)

[Previous papers:

LC Paper No. LS 84/05-06 issued vide LC Paper No. CB(2) 2528/05-06 dated 22 June 2006; and

Paragraphs 3 and 4 of the minutes of the 28th House Committee meeting on 23 June 2006 (LC Paper No. CB(2) 2569/05-06 issued vide LC Paper No. CB(2) 2596/05-06 dated 28 June 2006)]

14. The Chairman said that at the House Committee meeting on 23 June 2006, Members deferred a decision on the Bill, pending the Legal Service Division seeking clarifications from the solicitors responsible for the Bill.

15. The Chairman further said that the solicitors responsible for the Bill had provided information on certain technical issues of the Bill. The Hong Kong Society for the Protection of Children had agreed to amend its constitution to ensure that it would be consistent with the Hong Kong Society for the Protection of Children Incorporation Ordinance.

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

V. Council meeting on 2 August 2006

17. The Chairman said that the Council meeting on 2 August 2006 was for the specific purpose of resuming the debate on the Second Reading of the Interception of Communications and Surveillance Bill.

VI. Report of Bills Committees and subcommittees

Report of the Bills Committee on Interception of Communications and Surveillance Bill

(LC Paper No. CB(2) 2776/05-06)

18. The Chairman, in her capacity as Chairman of the Bills Committee, explained that the Bill sought to regulate the conduct of interception of

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communications and the use of surveillance devices by prescribed authorisations, by oversight of the Commissioner on Interception of Communications and Surveillance (the Commissioner) to be established under the Bill, and by regular reviews within the law enforcement agencies concerned.

19. The Chairman said that during the deliberations of the Bills Committee, members had raised concerns on various issues, including the definition of covert surveillance, public security and serious crime; the two-tier system for covert surveillance; conditions for issue of prescribed authorisation; appointment of panel judges; arrangements for prescribed authorisation; executive authorisation; emergency authorisation; oral application; protection of legal professional privilege; functions and powers of the Commissioner; notification of targets of interception of communications or surveillance; non-compliance with the provisions in the Bill or the code of practice; and safeguards for protected products and record keeping.

20. The Chairman further said that to address members' concerns, the Administration would propose Committee Stage amendments (CSAs). Ms Margaret NG and Mr James TO would separately propose CSAs. The Bills Committee did not object to the resumption of the Second Reading debate on the Bill on 2 August 2006. The Chairman added that the Bills Committee would hold further meetings to discuss the draft code of practice.

21. Mr James TO said that as some of his and Ms Margaret NG's CSAs were substantially the same, they would try to coordinate to avoid duplication. Mr TO further said that he was finalising his CSAs, some of which would offer various options for Members to choose. He appealed to Members to support his CSAs.

22. Ms Emily LAU said that it would facilitate Members' consideration of the CSAs if the Secretariat could compile a table setting out the CSAs proposed by the Administration and individual Members. Mr James TO concurred with Ms LAU.

23. The Chairman said that the Secretariat was busy preparing the script for the Council meeting. In addition, the Secretariat would need to service the meetings of the Bills Committee scheduled for the following week to discuss the draft code of practice. She would leave it to the Secretariat to decide whether it had the capacity to prepare the table requested by Ms LAU and Mr TO.

24. The Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 24 July 2006.

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VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 2778/05-06)

25. The Chairman said that there were nine Bills Committees and eight subcommittees under the House Committee in action.

VIII. Any other business

26. The Chairman said that Mr Ray CHAN, Assistant Secretary General 3, would retire after the Council meeting on 2 August 2006. The Chairman further said that Mr CHAN had served the Legislative Council for 31 years. On behalf of Members, the Chairman thanked Mr CHAN for his dedicated service and contribution, and wished him a happy retirement.

IX. Date of next meeting

27. The Chairman informed Members that the next meeting would be held on Friday, 6 October 2006.

28. There being no other business, the meeting ended at 2:50 pm.

Council Business Division 2
Legislative Council Secretariat
4 October 2006