

立法會

Legislative Council

LC Paper No. CB(2) 2074/06-07

Ref : CB2/H/5/06

House Committee of the Legislative Council

**Minutes of the 27th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 1 June 2007**

Members present :

Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
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 James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
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 Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH

Mr Simon WONG	Chief Public Information Officer
Miss Polly YEUNG	Chief Council Secretary (1)5
Ms Connie SZETO	Chief Council Secretary (1)6
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Mr Timothy TSO	Assistant Legal Adviser 2
Mr Stephen LAM	Assistant Legal Adviser 4
Mr KAU Kin-wah	Assistant Legal Adviser 6
Ms Amy YU	Senior Council Secretary (2)3

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I. Confirmation of the minutes of the 26th meeting held on 25 May 2007
(LC Paper No. CB(2) 1999/06-07)

The minutes were confirmed.

II. Matters arising

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

2. The Deputy Chairman said that CS had indicated that there were one to two bills to be presented to the Council.

(b) Building Management (Amendment) Ordinance 2007 (Commencement) Notice 2007

[LC Paper No. LS 81/06-07]

(Paragraphs 7 to 9 of the minutes of the 26th House Committee meeting on 25 May 2007 (LC Paper No. CB(2) 1999/06-07) issued vide LC Paper No. CB(2) 2016/06-07 dated 30 May 2007)

[Previous paper:

Paragraphs 51 to 53 of LC Paper No. LS 73/06-07 issued vide LC Paper Nos. CB(2) 1961 (English version) & 1970 (Chinese version)/06-07 dated 24 May 2007]

3. The Deputy Chairman said that at the last House Committee meeting, Members agreed to defer a decision on the Building Management (Amendment) Ordinance 2007 (Commencement) Notice 2007, pending receipt of the Administration's information on its comprehensive plan to carry out publicity on the proposals in the Bill. The Deputy Chairman further said that the Administration's response was attached to the Legal Service Division's report.

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4. Mr James TO said that he had considered the information provided by the Administration on its publicity arrangements for the commencement of the Building Management (Amendment) Ordinance 2007. He had contacted the Administration in the morning who had agreed to consider his suggestion for providing each owners' corporation with a guide to facilitate their understanding of the new provisions of the Amendment Ordinance. While he would prefer two more months of publicity efforts to promote public awareness of the Amendment Ordinance before its commencement, he was also mindful of the call for its early implementation to better safeguard the interests of property owners and owners' corporations. On balance, he considered the commencement date of 1 August 2007 acceptable.

5. Members did not raise any further queries on this item of subsidiary legislation.

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)**

The English Schools Foundation (Amendment) Bill 2007
(LC Paper No. LS 75/06-07)

6. The Deputy Chairman said that the Bill was introduced by Mr Abraham SHEK, and the Panel on Education had been briefed on the draft Bill at its meeting on 22 March 2007. The Legal Service Division was still scrutinising the legal and drafting aspects of the Bill.

7. The Acting Legal Adviser said that members of the Public Accounts Committee had raised concern about the governance of English Schools Foundation (The Foundation). The Legal Service Division recommended that a Bills Committee be formed to study the Bill in detail.

8. Mr Abraham SHEK said that the Public Accounts Committee had made various recommendations on the governance of The Foundation. He considered it necessary to form a Bills Committee to scrutinise the proposals in the Bill.

9. Dr YEUNG Sum and Mr Tommy CHEUNG expressed support for the setting up of a Bills Committee. Mr CHEUNG said that he might propose amendments to the Bill.

10. The Deputy Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Dr YEUNG Sum, Ms Emily LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Ms Audrey EU, Dr Fernando CHEUNG and Mr Albert CHENG.

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11. The Deputy Chairman said that as there were vacant slots, the Bills Committee could commence work immediately.

(b) Legal Service Division report on subsidiary legislation gazetted on 25 May 2007 and tabled in Council on 30 May 2007

(LC Paper No. LS 76/06-07)

12. The Deputy Chairman said that only one item of subsidiary legislation, i.e. the Fugitive Offenders (Corruption) Order, was gazetted on 25 May 2007 and tabled in Council on 30 May 2007.

13. The Acting Legal Adviser said that the Order sought to implement the provisions of the United Nations Convention Against Corruption (the Convention) in Hong Kong. He referred Members to the last paragraph of the Legal Service Division Report and pointed out that according to the Legislative Council (LegCo) Brief, apart from the Order, another two orders would be made and submitted to LegCo for approval by resolution to give effect to the relevant articles of the Convention. The Administration had given notice to move the proposed resolutions and the Legal Service Division would provide reports on the two orders for the next House Committee meeting.

14. Mr James TO enquired if it would be viable to form a subcommittee to study the Order and the two orders in question jointly.

15. The Acting Legal Adviser replied in the affirmative. He said that Members could form a subcommittee at the meeting to study the Order. Alternatively, Members could defer the decision on the Order to the next House Committee meeting and then consider the need for the setting up of a subcommittee to study the Order and the two orders together.

16. Mr James TO was concerned about the impact on the scrutiny period of the Order should Members decide to defer the decision to the next House Committee meeting.

17. The Acting Legal Adviser responded that the Order was subject to negative vetting with a scrutiny period of 28 days plus another 21 days if extended by resolution of the Council. Its scrutiny period would be shortened by one week if Members deferred the decision to the next House Committee meeting. On the other hand, the two orders to be considered next week were subject to positive vetting and the Administration could be requested to withdraw its notices for moving the resolutions should a subcommittee be formed to study them.

18. Having considered the scrutiny period, Mr James TO opined that a subcommittee should be formed to study the Order at the meeting.

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19. The Deputy Chairman proposed that a subcommittee be formed to study the Order in detail. The subcommittee would also study the two orders if considered necessary at the next House Committee meeting. Members agreed. The following Members agreed to join: Ms Margaret NG, Mr James TO, Mr Jasper TSANG and Mr LAU Kong-wah.

IV. Further business for the Council meeting on 6 June 2007

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

Rail Merger Bill

20. The Deputy Chairman said that the Bills Committee on the above Bill had presented its report to the House Committee at the last meeting, and Members agreed to the resumption of the Second Reading debate on the Bill on 6 June 2007.

21. In response to Ms Emily LAU's enquiry on the arrangement for the Council meeting on 6 June 2007, the Deputy Chairman informed Members that if it was unlikely that the business on the Agenda of the Council meeting could be finished by about midnight on that day, the meeting would be suspended at about 10:00 pm and be resumed on 7 June 2007 at 2:30 pm.

V. Business for the Council meeting on 13 June 2007

(a) **Questions**
(LC Paper No. CB(3) 625/06-07)

22. The Deputy Chairman said that 20 questions (six oral and 14 written) had been scheduled for the meeting.

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

Supplementary Appropriation (2006-2007) Bill

23. The Deputy Chairman said that the Administration had given notice to present the above Bill to the Council. The House Committee would consider the Bill at its meeting on 15 June 2007.

(c) **Government motions**

(i) **Proposed resolutions to be moved by the Secretary for Financial Services and the Treasury made under the Bankruptcy Ordinance relating to :**

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- **the Bankruptcy (Amendment) Rules 2007;**
- **the Bankruptcy (Forms) (Amendment) Rules 2007;**
- **the Bankruptcy (Fees and Percentages) (Amendment) Order 2007; and**
- **the Proof of Debts (Amendment) Rules 2007.**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 612/06-07 dated 25 May 2007.)
(*LC Paper Nos. LS 77 & 80/06-07*)

24. The Acting Legal Adviser said that the proposed resolutions were for seeking the approval of LegCo of the four Amendment Rules and Order to implement the provisions of the Bankruptcy (Amendment) Ordinance 2005 to empower the Official Receiver to outsource bankruptcy cases to private insolvency practitioners in specified circumstances. The Acting Legal Adviser added that no difficulties in the legal or drafting aspects of the Amendments Rules and Order had been identified.

25. Members did not raise objection to the Secretary for Financial Services and the Treasury moving the proposed resolutions at the Council meeting.

(ii) Proposed resolution to be moved by the Secretary for Constitutional Affairs under section 54A of the Interpretation and General Clauses Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 610/06-07 dated 25 May 2007.)
(*LC Paper No. LS 79/06-07*)

26. The Deputy Chairman said that the proposed resolution was for seeking the approval of LegCo to effect a transfer, with effect from 1 July 2007, of the statutory functions of eight of the Directors of Bureaux to the Directors of nine re-organised Bureaux and between some of the affected Permanent Secretaries. A subcommittee had been formed under the House Committee to study the legislative amendments relating to the proposed re-organisation.

27. Mr TAM Yiu-chung, Chairman of the Subcommittee on Legislative Amendments Relating to the Proposed Re-organisation of Policy Bureaux of the Government Secretariat, reported that the Subcommittee had held six meetings since its formation on 18 May 2007 to examine the legislative amendments relating to the proposed re-organisation. The legislative amendments included a resolution to effect a transfer of the statutory functions of eight of the Directors of Bureaux to the Directors of nine re-organised Bureaux, and an order to amend the list of public officers specified in Schedule 6 to the Interpretation and General Clauses Ordinance (Cap. 1). According to the Administration, both the resolution and the order should come into force on 1 July 2007.

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28. Mr TAM said that the Subcommittee had completed the scrutiny of the Chinese version of the resolution with some 1000 marked-up pages, and had agreed to seek the assistance of the Subcommittee's legal adviser for scrutiny of the English version.

29. Mr TAM highlighted the main issues of concern raised by members of the Subcommittee during their deliberations. He explained that some members objected strongly to the proposal to transfer the legal aid portfolio to the Home Affairs Bureau, as they were worried about its impact on the independence of the Legal Aid Department. Some members were of the view that the Labour and Welfare Bureau should have two Permanent Secretaries, and some considered that the post of Director of Environmental Protection should be filled by an environmental protection professional. Mr TAM pointed out that a member had indicated his intention to amend the resolution to change the name of the Commerce and Economic Development Bureau to "Commerce, Industry, Technology and Economy Bureau" so as to reflect the two portfolios of industries and technology. There was also a view that the Development Bureau should be renamed as "Sustainable Development Bureau".

30. Mr TAM further said that as the Subcommittee had already completed the scrutiny of the resolution and the order, members agreed that it was not necessary for the House Committee to form another subcommittee to study the proposed resolution to be moved by the Administration at the Council meeting on 13 June 2007. As the deadline for giving notice of amendments to the resolution was 6 June 2007, the Subcommittee had scheduled a meeting on 4 June 2007 to discuss members' amendments to the resolution. Whether the meeting would be held would depend on members' views.

31. Mr TAM added that the Subcommittee would submit its written report at the next House Committee meeting.

32. Members agreed that it was not necessary to set up a new subcommittee to study the proposed resolution.

33. The Deputy Chairman said that according to the established practice, Members should decide on the need to request the Administration to withdraw its notice. He informed Members that there was a precedent in 2002 where the Administration was not requested to withdraw its notice even though the resolution, which was concerned with the introduction of the accountability system for Principal Officials, was studied by a subcommittee.

34. Mr TAM Yiu-chung supplemented that the Subcommittee had also agreed that it was not necessary to request the Administration to withdraw its notice for moving the proposed resolution.

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35. Mr SIN Chung-kai also said that the Subcommittee had agreed not to request the Administration to withdraw its notice for the proposed resolution. Mr SIN indicated that he would give notice to move amendment to the proposed resolution to retitle the name of the Commerce and Economic Development Bureau as "Commerce, Industry, Technology and Economy Bureau".

36. Members did not raise objection to the Secretary for Constitutional Affairs moving the proposed resolution at the Council meeting.

(d) Members' motions

(i) Motion to be moved Hon LEE Wing-tat

(Wording of the motion issued vide LC Paper No. CB(3) 628/06-07 dated 30 May 2007.)

37. The Deputy Chairman said that the subject of the motion to be moved by Mr LEE Wing-tat was "Transforming Radio Television Hong Kong to become the Hong Kong Public Broadcasting Corporation".

(ii) Motion to be moved by Hon WONG Yung-kan

(Wording of the motion issued vide LC Paper No. CB(3) 631/06-07 dated 31 May 2007.)

38. The Deputy Chairman said that the subject of the motion to be moved by Mr WONG Yung-kan was "Promoting the sustainable development of the local agriculture and fisheries industries".

39. The Deputy Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 6 June 2007.

40. Ms Emily LAU enquired about the arrangement for the Council meeting on 13 June 2007 since the business on the Agenda of the meeting would unlikely be finished on that day.

41. The Deputy Chairman said that the Council meeting would probably resume in the morning of 14 June 2007, but the arrangement had yet to be finalised.

42. Ms Emily LAU hoped that Members would be informed of the arrangement as soon as practicable.

VI. Report of Bills Committees and subcommittees

(a) Report of the Bills Committee on City University of Hong Kong (Amendment) Bill 2006

(LC Paper No. CB(2) 2002/06-07)

43. Ms Emily LAU, Chairman of the Bills Committee, said that the Bills Committee had held five meetings and had met with the Council of the City University of Hong Kong (CityU Council), the CityU Staff Association, the CityU Postgraduate Association and the CityU Provisional Standing Committee of Convocation.

44. Ms LAU further said that the Bills Committee supported the objective of the Bill presented by Ir Dr Raymond HO to simplify the structure of the CityU Council. Members considered it necessary to increase the number of staff representative, student representative and Convocation representative in the restructured CityU Council. After discussions, the CityU Council had agreed to increase its membership from the proposed number of 20 in the Bill to 23. The three additional members were : one more elected staff member, an elected postgraduate student and the Chairman of the Convocation.

45. Ms LAU added that the Bills Committee had also discussed the measures taken by the CityU Council to enhance its transparency, accountability and openness, and the attendance of external members at CityU Council meetings, and had enquired about the establishment of the Court of CityU.

46. Ms LAU also said that the Bills Committee supported the Committee Stage amendments (CSAs) to be moved by Ir Dr Raymond HO and the resumption of the Second Reading debate on the Bill on 13 June 2007.

47. The Deputy Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 4 June 2007.

(b) Report of the Bills Committee on Housing (Amendment) Bill 2007

(LC Paper No. CB(1) 1782/06-07)

48. Mrs Selina CHOW, Chairman of the Bills Committee, said that since its formation in February 2007, the Bills Committee had held 12 meetings, including two with deputations. The Bills Committee had examined various issues in depth, including the justifications for repealing the 10% median rent-to-income ratio (MRIR) cap, the operation of the new rent adjustment mechanism, the computation of the income index, and the need to provide for a rent increase cap under the new rent adjustment mechanism.

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49. Mrs CHOW pointed out that the Bills Committee appreciated that the upsurge in the MRIR figure in recent years was due to a wide range of extraneous factors other than changes in the income of public rental housing (PRH) households and the rent they paid. Owing to the continued existence of such factors, the MRIR would continue to exceed 10%, which meant that PRH rents could only go down but not go up even when there was an increase in PRH tenants' household income. The 10% MRIR cap was neither reasonable nor sustainable in the long run, and hence should be repealed.

50. Mrs CHOW further said that with the removal of the 10% MRIR cap, members had expressed grave concern about the absence of a rent increase cap under the new rent adjustment mechanism to safeguard against frequent rent increases. The majority of members of the Bills Committee were of the view that the Administration should consider introducing a rent increase cap in the Bill. The Administration had taken on board members' view and would move CSAs to the effect that the rate of each rent increase could not exceed 10%. Mr WONG Kwok-hing and Mr Frederick FUNG had indicated that they would move CSAs in this regard, and Mr LEE Wing-tat was also considering moving CSAs.

51. Mrs CHOW also said that the Bills Committee had considered the rent review cycle and noted that the two-year rent review cycle proposed by the Administration would help achieve a more moderate rent adjustment. On the other hand, some members and deputations considered that the existing longer three-year review cycle would provide better safeguard against frequent rent increases. Mr LEUNG Yiu-chung and Mr Frederick FUNG had indicated that they would move CSAs in this regard.

52. Mrs CHOW added that apart from the CSAs on rent increase cap, the Administration would also move other CSAs to appoint 1 August 2007 as the commencement date of the Amendment Ordinance, to stipulate that the Housing Authority would not be required to vary the rent if the rate of change of the income index was 0.1% or below, and to specify that the Director of Census and Statistics would be appointed to compute the income index. Mrs CHOW said that the Bills Committee supported the CSAs to be moved by the Administration and the resumption of the Second Reading debate on the Bill on 13 June 2007. She reminded Members that the deadline for giving notice of CSAs was Monday, 4 June 2007.

53. Mrs CHOW further said that as the Bills Committee had just held its last meeting on 31 May 2007, its report was available only in the morning of the House Committee meeting on 1 June 2007.

(c) **Report of the Bills Committee on Revenue Bill 2007**
(*LC Paper No. CB(1) 1781/06-07*)

54. Mr CHAN Kam-lam, Chairman of the Bills Committee, referred Members to the report of the Bills Committee, and said that the Bills Committee had held three meetings and had received views from some deputations including the wine and beer trades. Members of the Bills Committee were generally supportive of the proposed reduction in stamp duty and duty on alcoholic beverages. Members, however, were gravely concerned whether the duty reduction had benefited consumers through reduction in the retail prices of alcoholic beverages, as undertaken by the relevant trades prior to the announcement of the duty reduction in the 2007-2008 Budget.

55. Mr CHAN elaborated that members were of the view that the beer trade should benefit consumers by reducing the retail price of beer products to reflect the duty concession, rather than by giving out free gifts or promotional offers. To address members' concern, the Administration had engaged the beer trade in further discussion, following which the Hong Kong Beer Coalition, which represented the major beer importers in Hong Kong, had given an undertaking in writing of its commitment to pass on duty savings to consumers by reflecting all duty savings directly on the new price lists of beer products with effect from 1 June 2007. The Administration had also assured members that it would continue to monitor the changes in retail prices of beer products through price lists provided by the Hong Kong Beer Coalition and with the assistance of the Consumer Council. Mr CHAN further said that as regards wine, the Bills Committee noted that the relevant wine trade organisation had made efforts to reduce the retail prices to reflect the tax reduction and had been working proactively with the trade to ensure that consumers were able to benefit from the tax concession.

56. Mr CHAN added that the Bill Committee had also discussed the CSA proposed by Mr SIN Chung-kai, and had noted the Administration's latest advice of its intention to resume the Second Reading debate on the Bill on 13 June 2007.

57. The Deputy Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 4 June 2007.

VII. Position on Bills Committees and subcommittees
(*LC Paper No. CB(2) 2000/06-07*)

58. The Deputy Chairman said that there were 11 Bills Committees and 11 subcommittees under the House Committee in action.

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VIII. Meeting with leaders of Central Government visiting Hong Kong

(Letter dated 29 May 2007 from Hon Emily LAU Wai-hing to the Chairman of the House Committee (LC Paper No. CB(2) 2016/06-07(01))

59. The Deputy Chairman referred Members to Ms Emily LAU's letter proposing that State Leaders who would be visiting Hong Kong during the 10th anniversary of the handover of the Hong Kong Special Administrative Region be invited to a meeting and banquet with Members.

60. Ms Emily LAU said that although the Secretary for Constitutional Affairs had already indicated in his response to an oral question raised at the last Council meeting that there would be little opportunity for such a meeting, it was important to convey to State Leaders Members' wish to meet with them to discuss issues of mutual concern. Ms LAU further said that if Members agreed to her proposal, the Chairman of the House Committee, on behalf of all Members, could write to the Chief Executive (CE) to convey their request.

61. The Deputy Chairman informed Members that at the House Committee meeting on 24 November 2006, Members agreed that the Chairman of the House Committee wrote to CE to convey their wish to meet with Mr WU Bangguo, Chairman of the Standing Committee of the National People's Congress, during his visit to Hong Kong in early December 2006.

62. Dr YEUNG sum expressed support for Ms Emily LAU's proposal.

63. Members agreed that the Chairman should write to CE on behalf of Members to relay their request.

IX. Any other business

64. There being no other business, the meeting ended at 3:01 pm.