

LegCo President's Decisions on Members' Bills

Since the last issue (September 2001), the LegCo President has made three decisions on members' bills under Rule 51(3) and (4) of the Rules of Procedure of the LegCo of the HKSAR.⁵



The Bank of East Asia, Limited (Merger) Bill

The first decision was made on 13 November 2001 in respect of The Bank of East Asia, Limited (Merger) Bill proposed by the Hon Ng Leung Sing. The Bill sought to provide for the vesting in The Bank of East Asia, Limited of the undertaking of First Pacific Bank Limited and for related matters.

The Secretary for Financial Services submitted that the Bill related to Government policies on bank merger, taxation, and control of tenancies. Counsel to the Legislature was also of the view that the Bill related to Government policies.

The LegCo President was satisfied that the Bill related to Government policies on the regulation of banks, the set-off of losses against profits of corporations, and the control of tenancies, as reflected in the relevant legislation. She decided that the Bill related to Government policy within the meaning of Rule 51(4) of the Rules of Procedure and required the written consent of the CE for its introduction into the LegCo.

Written consent for the introduction of the Bill was given by the CE and it was enacted by the LegCo as The Bank of East Asia, Limited (Merger) Ordinance (Ord No 34 of 2001) and gazetted on 28 December 2001.

Mizuho Corporate Bank, Limited (Hong Kong Consolidation) Bill

The second decision was made on 15 November 2001 in respect of Mizuho Corporate Bank, Limited (Hong Kong Consolidation) Bill proposed by Dr Hon David Li Kwok Po, GBS, JP.

The Bill sought to provide for the transfer and vesting of the respective undertakings of The Dai-Ichi Kangyo Bank, Limited Hong Kong Branch and The Industrial Bank of Japan, Limited Hong Kong Branch to and in The Fuji Bank, Limited. The Fuji Bank, Limited (referred to as "Corporate Business Bank" in the Bill) would be renamed "Mizuho Corporate Bank, Limited" on an appointed day.

The Secretary for Financial Services submitted that the Bill related to Government policies on bank merger, taxation, and control of tenancies. Counsel to the Legislature was also of the view that the Bill related to Government policies.

The LegCo President was satisfied that the Bill related to Government policies on the regulation of banks, the set-off of losses against profits of corporations, and the control of tenancies, as reflected in the relevant legislation. She decided that the Bill related to Government policy within the meaning of Rule 51(4) of the Rules of Procedure and required the written consent of the CE for its introduction into the LegCo.

⁵For further discussion on the operation of Rule 51 of the Rules of Procedure, please refer to *The Focus* at p 15 of Issue No 1 of the Bulletin.

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Written consent for the introduction of the Bill was given by the CE and it was enacted by the LegCo as the Mizuho Corporate Bank, Limited (Hong Kong Consolidation) Ordinance (Ord No 33 of 2001) and gazetted on 28 December 2001.



Employment (Amendment) (No 2) Bill 2001

The third decision was made on 14 March 2002 in respect of Employment (Amendment) (No 2) Bill 2001 jointly proposed by the Hon Chan Kwok Keung, the Hon Li Fung Ying and the Hon Leung Fu Wah.

The Bill essentially consisted of one clause, with the object of making the Employment Ordinance (Cap 57) applicable to non-civil service contract ("NCSC") staff employed by the Government.

The Secretary for Education and Manpower ("SEM") submitted that the Bill related to public expenditure, the operation of the Government and Government policies. Members introducing the Bill did not agree with the SEM. The SEM provided further comments and emphasized that the estimate of the additional manpower and resources required for implementing the Bill was reasonable. Counsel to the Legislature advised that there was no sufficient ground for the President to reject the Administration's estimate of the amount of public expenditure required to implement the Bill, and that it was for the President to decide whether that amount was so substantial that the President must not ignore it. Counsel also advised that the effect of the Bill on the Administration did not fall within the meaning of "operation of the Government". However, he advised that there was ample evidence of the existence of a Government policy that Cap 57 should not be extended to cover NCSC staff.

The President decided that the Bill did not relate to the operation of the Government within the meaning of Rule 51 of the Rules of Procedure. However, the Bill related to public expenditure and Government policy and could not be introduced by Members. **BLB**

Annex III to the Basic Law:

National Laws to be Applied in the Hong Kong Special Administrative Region

The following national laws shall be applied locally with effect from 1 July 1997 by way of promulgation or legislation by the Hong Kong Special Administrative Region:

1. Resolution on the Capital, Calendar, National Anthem and National Flag of the People's Republic of China.
2. Resolution on the National Day of the People's Republic of China.
3. Declaration of the Government of the People's Republic of China on the Territorial Sea.
4. Nationality Law of the People's Republic of China.
5. Regulations of the People's Republic of China Concerning Diplomatic Privileges and Immunities.
6. Law of the People's Republic of China on the National Flag.
7. Regulations of the People's Republic of China concerning Consular Privileges and Immunities.
8. Law of the People's Republic of China on the National Emblem.
9. Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone.
10. Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region.
11. Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf.*

* Added to Annex III on 4 November 1998 and applied in the HKSAR with effect from 24 December 1998.

