

# LEGISLATIVE COUNCIL

## MINUTES

### No. 4

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Minutes of the meeting held on Wednesday 22 October 2008 at 11:00 am

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#### Members present:

President

The Hon Jasper TSANG Yok-sing, GBS, JP

The Hon Albert HO Chun-yan

Ir Dr the Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP

The Hon LEE Cheuk-yan

Dr the Hon David LI Kwok-po, GBM, GBS, JP

The Hon Fred LI Wah-ming, JP

Dr the Hon Margaret NG

The Hon James TO Kun-sun

The Hon CHEUNG Man-kwong

The Hon CHAN Kam-lam, SBS, JP

The Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP

The Hon LEUNG Yiu-chung

Dr the Hon Philip WONG Yu-hong, GBS

The Hon WONG Yung-kan, SBS, JP

The Hon LAU Kong-wah, JP

The Hon LAU Wong-fat, GBM, GBS, JP

The Hon Miriam LAU Kin-yee, GBS, JP

The Hon Emily LAU Wai-hing, JP  
The Hon Andrew CHENG Kar-foo  
The Hon TAM Yiu-chung, GBS, JP  
The Hon LI Fung-ying, BBS, JP  
The Hon Tommy CHEUNG Yu-yan, SBS, JP  
The Hon Albert CHAN Wai-yip  
The Hon Frederick FUNG Kin-kee, SBS, JP  
The Hon Audrey EU Yuet-mee, SC, JP  
The Hon Vincent FANG Kang, SBS, JP  
The Hon WONG Kwok-hing, MH  
The Hon LEE Wing-tat  
Dr the Hon Joseph LEE Kok-long, JP  
The Hon Jeffrey LAM Kin-fung, SBS, JP  
The Hon Andrew LEUNG Kwan-yuen, SBS, JP  
The Hon Alan LEONG Kah-kit, SC  
The Hon LEUNG Kwok-hung  
The Hon CHEUNG Hok-ming, SBS, JP  
The Hon WONG Ting-kwong, BBS  
The Hon Ronny TONG Ka-wah, SC  
The Hon CHIM Pui-chung  
Prof the Hon Patrick LAU Sau-shing, SBS, JP  
The Hon KAM Nai-wai, MH  
The Hon Cyd HO Sau-lan  
The Hon Starry LEE Wai-king  
Dr the Hon LAM Tai-fai, BBS, JP  
The Hon CHAN Hak-kan  
The Hon Paul CHAN Mo-po, MH, JP

The Hon Tanya CHAN

Dr the Hon Priscilla LEUNG Mei-fun

Dr the Hon LEUNG Ka-lau

The Hon CHEUNG Kwok-che

The Hon WONG Sing-chi

The Hon WONG Kwok-kin, BBS

The Hon WONG Yuk-man

The Hon IP Wai-ming, MH

The Hon IP Kwok-him, GBS, JP

The Hon Mrs Regina IP LAU Suk-yee, GBS, JP

Dr the Hon PAN Pey-chyou

The Hon Paul TSE Wai-chun

Dr the Hon Samson TAM Wai-ho, JP

**Members absent:**

The Hon Timothy FOK Tsun-ting, GBS, JP

The Hon Abraham SHEK Lai-him, SBS, JP

The Hon CHAN Kin-por, JP

**Public officers attending:**

The Hon Henry TANG Ying-yen, GBS, JP  
The Chief Secretary for Administration

The Hon Ambrose LEE Siu-kwong, IDSM, JP  
Secretary for Security

Dr the Hon York CHOW Yat-ngok, SBS, JP  
Secretary for Food and Health

The Hon Matthew CHEUNG Kin-chung, GBS, JP  
Secretary for Labour and Welfare

Prof the Hon K C CHAN, SBS, JP  
Secretary for Financial Services and the Treasury

The Hon Edward YAU Tang-wah, JP  
Secretary for the Environment

The Hon Eva CHENG, JP  
Secretary for Transport and Housing

**Clerks in attendance:**

Ms Pauline NG Man-wah, Secretary General

Mrs Constance LI TSOI Yeuk-lin, Assistant Secretary General (1)

Mrs Justina LAM CHENG Bo-ling, Assistant Secretary General (3)

### Tabling of Papers

The following papers were laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

<u>Subsidiary Legislation / Instruments</u>	<u>L.N. No.</u>
1. Employees Retraining Ordinance (Amendment of Schedule 2) (No. 2) Notice 2008 (gazetted on 17.10.2008)	224/2008
2. Buildings (Amendment) Ordinance 2008 (Commencement) Notice 2008 (gazetted on 17.10.2008)	225/2008
3. Fugitive Offenders (Piracy and Armed Robbery Against Ships) Order (Commencement) Notice (gazetted on 17.10.2008)	226/2008

### Other Papers

- No. 5 - Environment and Conservation Fund  
Trustee Report 2007-2008 (published on 15.10.2008)
- No. 6 - Hong Kong Deposit Protection Board  
Annual Report 2007-2008 (published on 15.10.2008)
- No. 7 - Annual Report of the Protection of Wages  
on Insolvency Fund Board 2007-2008 (published on  
16.10.2008)
- No. 8 - Occupational Safety and Health Council  
Annual Report 2007-2008 (published on 16.10.2008)
- No. 9 - The Land Registry Trading Fund Hong Kong  
2007-2008 Annual Report (published on 16.10.2008)
- No. 10 - Companies Registry Trading Fund  
Annual Report 2007-2008 (published on 17.10.2008)
- No. 11 - The Government Minute in response to the Report  
No. 50 of the Public Accounts Committee dated  
July 2008 (published on 17.10.2008)
- No. 12 - Consumer Council  
Annual Report 2007-2008 (published on 20.10.2008)

- No. 13 - Audited Financial Statements and Auditors' Report for the Fish Marketing Organization for the year ended 31 March 2008 (published on 20.10.2008)
- No. 14 - Audited Financial Statements and Auditors' Report for the Vegetable Marketing Organization for the year ended 31 March 2008 (published on 20.10.2008)
- No. 15 - Marine Fish Scholarship Fund Trustee's Report and Audited Financial Statements and Auditors' Report on the Fund for the year ended 31 March 2008 (published on 20.10.2008)
- No. 16 - Agricultural Products Scholarship Fund Trustee's Report and Audited Financial Statements and Auditors' Report on the Fund for the year ended 31 March 2008 (published on 20.10.2008)
- No. 17 - Hong Kong Housing Authority Annual Report 2007-2008 (published on 20.10.2008)
- No. 18 - Hong Kong Housing Authority Financial Statements for the year ended 31 March 2008 (published on 20.10.2008)

### **Addresses**

The Chief Secretary for Administration addressed the Council on the Government Minute in response to the Report No. 50 of the Public Accounts Committee dated July 2008.

### **Questions**

1. Hon TAM Yiu-chung asked Question 1.

The Secretary for Food and Health replied.

Four Members asked supplementary questions and the Secretary for Food and Health replied.

2. Hon Jeffrey LAM asked Question 2.

The Secretary for Financial Services and the Treasury replied.

Five Members asked supplementary questions and the Secretary for Financial Services and the Treasury replied.

3. Hon Andrew LEUNG asked Question 3.

The Secretary for Food and Health replied.

Six Members asked supplementary questions and the Secretary for Food and Health replied.

4. Hon WONG Ting-kwong asked Question 4.

The Secretary for Security replied.

Six Members asked supplementary questions and the Secretary for Security replied.

5. Hon Fred LI asked Question 5.

The Secretary for the Environment replied.

Four Members asked supplementary questions and the Secretary for the Environment replied.

6. Hon LAU Kong-wah asked Question 6.

The Secretary for Transport and Housing replied.

Six Members asked supplementary questions and the Secretary for Transport and Housing replied.

Written replies to Questions 7 to 20 were tabled for Members' information.

### **Motions**

#### Proposed resolution under the Pharmacy and Poisons Ordinance

The Secretary for Food and Health moved the following motion and addressed the Council:

RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 29 September 2008, be approved -

- (a) the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2008; and
- (b) the Poisons List (Amendment) (No. 4) Regulation 2008.

Question on the motion proposed, put and agreed to.

**Members' Motions**

Assisting the victims of the Lehman Brothers incident

Hon Jeffrey LAM moved the following motion and addressed the Council:

That, as a large number of investors have complained against the banks and securities companies using misleading marketing practices, which have led to their purchasing of financial products such as Lehman Minibonds without knowing the potential risks, resulting in their suffering substantial losses when the company went bankrupt; this incident has not only caused many members of the public to lose confidence in the above financial institutions, but has also seriously affected Hong Kong's reputation as an international financial centre; in this connection, this Council urges the Government to immediately take the following actions:

- (a) using all possible means, including setting up an inter-departmental response team to assume overall responsibility for providing comprehensive assistance to affected small investors and protecting their interest;
- (b) expeditiously completing a comprehensive investigation into whether the distributors of Lehman Minibonds and related financial products have violated the relevant regulatory rules or guidelines, including whether these distributors have used improper sales practices to mislead the investors, if it is proved that they have violated the relevant rules or guidelines, the Government should pursue the matter and seek compensation on behalf of the victims;
- (c) supporting the Consumer Council to conduct a study of the suspected cases involving misleading practices and, where necessary, use the Consumer Legal Action Fund to seek compensation from the banks and securities companies concerned for the small investors;
- (d) demanding the authorities to urge the trustees and distributors concerned to appoint an independent notary agency to properly handle the assets of holders of Lehman Minibonds or related financial products, thereby providing the best protection for the interest of small investors; and

- (e) at the same time conducting an investigation into whether there is dereliction of duty on the part of the Hong Kong Monetary Authority and the Securities and Futures Commission in this incident, and making recommendations on how to improve the mechanism for monitoring the sales of financial products, strengthen the protection of investors' interests and prevent the recurrence of similar incidents.

Question on Hon Jeffrey LAM's motion proposed.

The President stated that three Members would move amendments to the motion. In accordance with the Rules of Procedure, the motion and the three amendments would be debated together in a joint debate.

Hon KAM Nai-wai, Hon WONG Kwok-hing and Hon Alan LEONG, who would move amendments to the motion, spoke on the motion and their own amendments.

The Secretary for Financial Services and the Treasury spoke on the motion and the amendments.

A Member and Hon CHAN Kam-lam spoke on the motion and the amendments.

While Hon CHAN Kam-lam was speaking, the President left the chair at 2:13 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Four other Members spoke on the motion and the amendments.

Hon Audrey EU said that before her investments in Lehman Brothers-related products were reported by a newspaper on 21 October 2008, she had on several occasions made related disclosures. She said that when she accompanied victims of the Lehman Brothers incident to various banks and the Consumer Council in September, she had disclosed that she held Lehman Brothers-related products. She further said that she had made similar disclosure in the Commercial Radio interview on 3 October, but the products she held were not the same as those held by the victims of the Lehman Brothers incident. At the House Committee meeting on 13 October, she made such disclosure again and also explained that the Lehman Brothers-related products were not bought by her personally but by a trustee of her. In addition, these products were not purchased from the banks under complaint and she had not submitted any claim for compensation in respect of such products. She added that after a careful study of the terms of this motion, she was of the view that she did not have a direct or indirect pecuniary interest in the matters raised in the motion. She had consulted the Legal Adviser of the Legislative Council and her view was shared by the Legal Adviser. Hon Audrey EU then spoke on the motion and the amendments.

Dr Hon David LI declared that he personally did not hold any Lehman Brothers minibonds. He added that he was the Chairman and Chief Executive of the Bank of East Asia, which had acted as an agent for the sale of some Lehman Brothers minibonds. Dr Hon David LI then spoke on the motion and the amendments.

Dr Hon LAM Tai-fai declared that he did not hold any Lehman Brothers minibonds, but a small portion of his investments involved the products of Lehman Brothers Holdings Inc. Dr LAM then spoke on the motion and the amendments.

Four more Members and Hon LEUNG Yiu-chung spoke on the motion and the amendments.

At 3:33 pm, while Hon LEUNG Yiu-chung was speaking, the President resumed the chair.

Three other Members spoke on the motion and the amendments.

Prof Hon Patrick LAU declared that he had purchased some structured investment products which were not Lehman Brothers-related products. Prof LAU then spoke on the motion and the amendments.

Twelve Members spoke on the motion and amendments.

Hon Jeffrey LAM spoke on the amendments.

The Secretary for Financial Services and the Treasury spoke again.

Hon KAM Nai-wai moved the following amendment to Hon Jeffrey LAM's motion:

To delete "as" after "That," and substitute with "under the existing financial monitoring mechanism, there is still"; to delete "investors have complained" after "a large number of" and substitute with "bank clients and investors complaining"; to add "and notes" after "such as Lehman Minibonds"; to add "and the system for monitoring banks and the financial system" after "financial institutions"; to add "condemns the Government for its inadequate monitoring, and" after "this Council"; to add "urging distributors to expeditiously disclose information on the underlying assets of Lehman Minibonds or related financial products, including the nature of the underlying assets, their prices and liquidity; (c)" after "(b)"; to delete "," after "mislead the investors" and substitute with "and whether they have breached the regulations or deviated from the guidelines, and expeditiously disclose the nature and number of cases involving improper sales practices and violation of and deviation from the guidelines;"; to delete the original "(c)" and substitute with "(d) urging the Police to expeditiously complete their investigations for the authorities concerned to institute prosecutions against illegal acts, so as to severely penalize such acts; (e) urging various distributors to expeditiously propose to their clients compensation options for improper sales practices and violation of regulations; (f) with reference to the practice of Singapore in handling disputes resolution in the financial sector, considering the setting up of an independent commission or institution to provide one-stop service for disputes resolution, so as to enable the victims to seek compensation through such means as mediation and adjudication; (g)"; to delete the original "(d)" and substitute with "(h)"; to delete the original "(e)" and substitute with "(i)"; and to add "the Financial Secretary, the Financial Services and the Treasury Bureau," after "part of".

Question on Hon KAM Nai-wai's amendment to Hon Jeffrey LAM's motion proposed and put.

Hon Andrew LEUNG claimed a division. The President then ordered the Council to proceed to a division under Rule 47(1) of the Rules of Procedure.

The President announced that among the Members returned by functional constituencies, 20 were present, 13 were in favour of the amendment and seven against it; while among the Members returned by geographical constituencies through direct elections, 28 were present, 26 was in favour of the amendment and one against it. (Voting record in the Appendix.) Since the question was agreed by a majority of each of the two groups of Members present, he declared that the amendment was passed.

Hon Miriam LAU rose to move the following motion without notice:

That in the event of further divisions in relation to the motion on "Assisting the victims of the Lehman Brothers incident" or amendments thereto, the Council do proceed to each of such divisions after the division bell has been rung for one minute.

Question on the motion proposed, put and agreed to.

As Hon KAM Nai-wai's amendment had been passed, the President granted leave for Hon WONG Kwok-hing to revise the terms of his amendment.

Hon WONG Kwok-hing moved the following further amendment to Hon Jeffrey LAM's motion as amended by Hon KAM Nai-wai, and explained the revised terms of his amendment to the Council:

To add "; (j) expeditiously providing the details about implementing the plan for distributors to buy back the bonds from the bond-holders and the implementation timetable; (k) also expeditiously completing a comprehensive investigation into the issuers and sponsors etc of Lehman Minibonds and related financial products and, if it is proved that they have violated the rules or regulations, the Government should pursue the matter and seek compensation on behalf of the victims; and (l) demanding the Hong Kong Monetary Authority to investigate the unreasonable management measures adopted by the relevant banks to coerce their employees to achieve sales targets of the bonds concerned, establish channels for employees of banks to reflect such situations to the Hong Kong Monetary Authority and, at the same time, monitor bank management not to use high-handed and target-oriented approach in marketing products to protect front-line employees from becoming scapegoats, so as to restore public confidence in banks" immediately before the full stop.

Question on Hon WONG Kwok-hing's amendment to Hon Jeffrey LAM's motion as amended by Hon KAM Nai-wai proposed, put and agreed to.

As Hon KAM Nai-wai's and Hon WONG Kwok-hing's amendments had been passed, the President granted leave for Hon Alan LEONG to revise the terms of his amendment.

Hon Alan LEONG moved the following further amendment to Hon Jeffrey LAM's motion as amended by Hon KAM Nai-wai and Hon WONG Kwok-hing, and explained the revised terms of his amendment to the Council:

To add "; and (m) demanding the authorities to appoint, with the highest efficiency and within the shortest possible time, independent persons of credibility and authorize them to deal with the following tasks respectively: (i) monitoring the process of various banks for investigating complaint cases; and (ii) with the consent of the parties concerned, arbitrating those cases which cannot be settled by way of conciliation, so as to reduce the anxiety and dissatisfaction of the affected persons" immediately before the full stop.

Question on Hon Alan LEONG's amendment to Hon Jeffrey LAM's motion as amended by Hon KAM Nai-wai and Hon WONG Kwok-hing proposed, put and agreed to.

Hon Jeffrey LAM replied.

Question on Hon Jeffrey LAM's motion as amended by Hon KAM Nai-wai, Hon WONG Kwok-hing and Hon Alan LEONG put and agreed to.

#### Facing up to the transport needs of people with disabilities

Hon LEUNG Yiu-chung moved the following motion and addressed the Council:

That this Council passed motions on a number of occasions over the past few years calling for improvement to transport facilities for people with disabilities and offer of concessionary transport fares to them, but the Administration, some statutory transport corporations and other public transport operators still fail to face up to and give effect to the motions; this Council strongly demands that the Administration and various public transport operators immediately respond positively and give effect to the relevant motions previously passed by this Council and the Report of the Council's Subcommittee to Study the Transport Needs of and Provision of Concessionary Public Transport Fares for Persons with Disabilities in the last term, which include that:

- (a) in order to effectively assist people with disabilities in integrating into society, the Administration must adopt legislative, administrative and financial measures to press various major public transport operators to offer concessionary fares to them;
- (b) the Government must put forth, in the near future, specific proposals and a timetable for introducing half-fare concession for people with disabilities, so as to help them integrate into society and improve their life;
- (c) the Government must allocate additional resources to comprehensively improve the Rehabus service and, in particular, should enhance such service for people with disabilities living in remote areas and new towns; and
- (d) the Government must step up consultation with people with disabilities to fully realize the concept of "Transport for All", and strictly regulate the public transport operators in providing barrier-free facilities, so as to enable more people with disabilities to use public transport and integrate into society.

Question on Hon LEUNG Yiu-chung's motion proposed.

The Secretary for Transport and Housing and the Secretary for Labour and Welfare spoke on the motion.

Four Members and Hon Alan LEONG spoke on the motion.

While Hon Alan LEONG was speaking, the President left the chair at 6:42 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Four other Members and Hon Cyd HO spoke on the motion.

At 7:15 pm, while Hon Cyd HO was speaking, the President resumed the chair.

Eleven more Members spoke on the motion.

The Secretary for Transport and Housing and the Secretary for Labour and Welfare spoke again.

Hon LEUNG Yiu-chung replied.

Question on Hon LEUNG Yiu-chung's motion put and agreed to.

**Next meeting**

The President declared that the next meeting of the Council would be held on 29 October 2008 at 11:00 am.

The Council was adjourned at 8:35 pm.

(Jasper TSANG Yok-sing)  
President  
7 January 2009

Council Chamber  
Hong Kong

投票 VOTE: 1  
日期 DATE: 22/10/2008  
時間 TIME: 05:50:29 下午pm

動議 MOTION: 甘乃威議員對林健鋒議員的「協助雷曼兄弟苦主」議案，作出的修正案  
AMENDMENT BY HON KAM NAI-WAI TO HON JEFFREY LAM'S MOTION ON "ASSISTING THE VICTIMS OF THE LEHMAN BROTHERS INCIDENT"

動議人 MOVED BY: 甘乃威KAM Nai-wai

	功能團體 Functional Constituencies	地方選區 Geographical Constituencies	最後結果 Final Result
出席 Present	20	28	
投票 Vote	20	27	
贊成 Yes	13	26	
反對 No	7	1	
棄權 Abstain	0	0	
結果 Result	通過 Passed	通過 Passed	通過 Passed

個別表決如下 THE INDIVIDUAL VOTES WERE AS FOLLOWS:

議員 MEMBER	投票 VOTE	議員 MEMBER	投票 VOTE
<b>功能團體 Functional Constituencies</b>		<b>地方選區 Geographical Constituencies</b>	
何鍾泰 Dr Raymond HO	反對 NO	曾鈺成 TSANG Yok-sing	出席 PRESENT
李國寶 Dr David LI		何俊仁 Albert HO	贊成 YES
吳靄儀 Dr Margaret NG	贊成 YES	李卓人 LEE Cheuk-yan	贊成 YES
張文光 CHEUNG Man-kwong	贊成 YES	李華明 Fred LI	贊成 YES
梁劉柔芬 Mrs Sophie LEUNG	反對 NO	涂謹申 James TO	贊成 YES
黃宜弘 Dr Philip WONG	反對 NO	陳鑑林 CHAN Kam-lam	贊成 YES
黃容根 WONG Yung-kan		梁耀忠 LEUNG Yiu-chung	贊成 YES
劉皇發 LAU Wong-fat		劉江華 LAU Kong-wah	
劉健儀 Miriam LAU	贊成 YES	劉慧卿 Emily LAU	贊成 YES
霍震霆 Timothy FOK		鄭家富 Andrew CHENG	贊成 YES
石禮謙 Abraham SHEK		譚耀宗 TAM Yiu-chung	贊成 YES
李鳳英 LI Fung-ying	贊成 YES	陳偉業 Albert CHAN	
張宇人 Tommy CHEUNG		馮檢基 Frederick FUNG	贊成 YES
方剛 Vincent FANG		余若薇 Audrey EU	贊成 YES
李國麟 Dr Joseph LEE	贊成 YES	王國興 WONG Kwok-hing	贊成 YES
林健鋒 Jeffrey LAM	反對 NO	李永達 LEE Wing-tat	贊成 YES
梁君彥 Andrew LEUNG	反對 NO	梁家傑 Alan LEONG	贊成 YES
黃定光 WONG Ting-kwong	贊成 YES	梁國雄 LEUNG Kwok-hung	贊成 YES
詹培忠 CHIM Pui-chung	贊成 YES	張學明 CHEUNG Hok-ming	贊成 YES
劉秀成 Prof Patrick LAU	反對 NO	湯家驊 Ronny TONG	贊成 YES
林大輝 Dr LAM Tai-fai	反對 NO	甘乃威 KAM Nai-wai	贊成 YES
陳茂波 Paul CHAN		何秀蘭 Cyd HO	贊成 YES
陳健波 CHAN Kin-por		李慧琼 Stary LEE	贊成 YES
梁家驛 Dr LEUNG Ka-lau		陳克勤 CHAN Hak-kan	贊成 YES
張國柱 CHEUNG Kwok-che	贊成 YES	陳淑莊 CHAN Tanya	贊成 YES
葉偉明 IP Wai-ming	贊成 YES	Dr Priscilla LEUNG	反對 NO
葉國謙 IP Kwok-him	贊成 YES	黃成智 WONG Sing-chi	贊成 YES
潘佩珍 Dr PAN Pey-chyou	贊成 YES	黃國健 WONG Kwok-kin	贊成 YES
謝偉俊 Paul TSE	贊成 YES	黃毓民 WONG Yuk-man	贊成 YES
譚偉豪 Dr Samson TAM	贊成 YES	葉劉淑儀 Mrs Regina IP	贊成 YES

秘書 CLERK