

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2392/10-11  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/4/09

**Bills Committee on Residential Care Homes (Persons with Disabilities) Bill**

**Minutes of the 14<sup>th</sup> meeting  
held on Friday, 13 May 2011, at 10:45 am  
in Conference Room B of the Legislative Council Building**

**Members present** : Hon WONG Sing-chi (Chairman)  
Hon LEUNG Yiu-chung  
Hon TAM Yiu-chung, GBS, JP  
Hon Cyd HO Sau-lan  
Hon CHEUNG Kwok-che  
Hon IP Wai-ming, MH  
Hon Alan LEONG Kah-kit, SC

**Members absent** : Hon LEE Cheuk-yan  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Dr Hon PAN Pey-chyou  
Hon LEUNG Kwok-hung

**Public Officers attending** : Item I

Mr Roy TANG Yun-kwong, JP  
Deputy Secretary for Labour and Welfare (Welfare) 1

Mr Stephen SUI Wai-keung  
Commissioner for Rehabilitation  
Labour and Welfare Bureau

Mrs Cecilia YUEN  
Assistant Director of Social Welfare  
(Rehabilitation and Medical Social Services)

Ms Maggie LEUNG Yee-lee  
Senior Social Work Officer  
(Rehabilitation and Medical Social Services) 6  
Social Welfare Department

Ms Lonnie NG Wah-chi  
Senior Government Counsel  
Department of Justice

Miss Elaine NG Pui-kei  
Government Counsel  
Department of Justice

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 4

**Staff in attendance** : Mr YICK Wing-kin  
Assistant Legal Adviser 8

Ms Yvonne YU  
Senior Council Secretary (2) 4

Miss Maggie CHIU  
Legislative Assistant (2) 4

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**I. Meeting with the Administration**

[The Bill and LC Paper Nos. CB(2)1723/10-11(01), CB(2)1859/10-11 and CB(2)1802/10-11]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

Committee Stage amendments ("CSAs") proposed by the Administration

2. The Administration took members through its proposed CSAs to

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individual clauses of the Bill. Members raised no objection to the Administration's proposed CSAs. Members noted that the Administration would make further amendments to clauses 8 and 39 of the Bill.

Legislative timetable

3. The Administration advised that it proposed to resume the Second Reading debate on the Bill at the Council meeting of 15 June 2011. Subject to the passage of the Bill, the Administration proposed to gazette the Commencement Notice on 30 June 2011 and to appoint the same date as the day on which the Residential Care Homes (Persons with Disabilities) Ordinance ("the RCHD Ordinance") (except Part 2 on sanctions) would come into operation. The Secretary for Labour and Welfare ("SLW") would gazette another Commencement Notice for Part 2 of the Ordinance after the expiry of the 18-month grace period. The Administration further advised that it was preferable that the Residential Care Homes (Persons with Disabilities) Regulation ("the Regulation") to be made under section 24 of the RCHD Ordinance was made after most parts of the Ordinance had come into operation. In view of its target to introduce the Regulation before the end of the current legislative session, the Administration therefore proposed to appoint the gazettal date of the Commencement Notice as the day on which the Ordinance (except Part 2 on sanctions) would come into operation.

4. The legal adviser to the Bills Committee drew members' attention to section 32(1) of the Interpretation and General Clauses Ordinance (Cap. 1) which stipulated that "where an Ordinance is to come into operation on a day other than the day of its publication in the Gazette, a power to do anything under the Ordinance may be exercised at any time after its publication in the Gazette".

5. While appreciating the need to gazette the proposed Regulation as early as practicable so that the RCHD sector would be aware of the statutory requirements on the operation, management and supervision of RCHDs, and made rectification works within the 18-month grace period as appropriate, members considered it important to allow due process for the scrutiny of subsidiary legislation and not preferable for SLW to appoint a date for commencement of the RCHD Ordinance before the expiry of the negative vetting period for the subsidiary legislation. After taking into account members' views, the Administration agreed to revise the legislative timetable accordingly.

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6. To allow the RCHD sector to get prepared for the coming into force of the licensing scheme, members called on the Administration to submit the updated version of the Regulation which incorporated members' views made in the meetings of the Bills Committee as early as practicable. To allow sufficient time for scrutiny of the updated draft Regulation and in order not to delay the passage of the Bill, members considered that a subcommittee should be set up under the House Committee to study the updated version in detail.

Resumption of Second Reading debate on the Bill

7. The Chairman said that the full set of CSAs (including further amendments to clauses 8 and 39 of the Bill) proposed by the Administration would be circulated to members for consideration. If members had no further comments on the proposed amendments, the Bills Committee would report its deliberations to the House Committee on 27 May 2011.

*(Post-meeting note: The Administration subsequently advised the Bills Committee vide LC Paper No. CB(2)1802/10-11(01) that it proposed to gazette the Commencement Notice and the Regulation on 30 June 2011 and appoint 11 November 2011 (i.e. after the expiration of the full negative vetting period on the assumption that the first Legislative Council meeting would be held on 12 October 2011) as the date on which both the Ordinance (except Part 2 on sanctions) and the Regulation would come into operation.)*

**II. Any other business**

8. There being no other business, the meeting ended at 11:47 am.

Council Business Division 2  
Legislative Council Secretariat  
15 July 2011

**Proceedings of the 14<sup>th</sup> meeting of the  
Bills Committee on Residential Care Homes (Persons with Disabilities) Bill  
on Friday, 13 May 2011, at 10:45 am  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000000 - 000329	Chairman	Opening remarks	
000330 - 000427	Chairman Administration	The Administration's advice on its proposed Committee Stage amendments ("CSAs") to the Residential Care Homes (Persons with Disabilities) Bill ("the Bill") [Appendix I of LC Paper No. CB(2)1723/10-11(01)]	
000428 - 000454	Administration Chairman	Proposed amendment to clause 2 of the Bill	
000455 - 000522	Administration Chairman	Proposed amendments to clauses 8(6) and 12(5) of the Bill	
000523 - 000854	Administration Chairman Mr CHEUNG Kwok-che ALA8	Proposed amendment to clause 9 of the Bill  In response to ALA's concern, the Administration advised that further amendments would be proposed to clause 8 of the Bill such that a licence would remain in force until the appeal on a refusal to renew a licence was disposed of, withdrawn or abandoned.	<b>Admin</b>
000855 - 001006	Administration Chairman	Proposed amendment to clause 16(2) of the Bill	
001007 - 001049	Administration Chairman	Proposed amendments to clause 17 of the Bill	
001050 - 001129	Administration Chairman	Proposed amendments to clause 19 of the Bill	
001130 - 001144	Administration Chairman	Proposed amendments to clause 20(3) and (5) of the Bill	
001145 - 001500	Administration Chairman Ms Cyd HO Mr IP Wai-ming	Proposed amendments to clause 34	
001501 - 002139	Administration Chairman Ms Cyd HO Mr IP Wai-ming	Proposed amendments to clause 39(4)  The Administration's advice that a further amendment would be proposed to clause 39(4) to	<b>Admin</b>

Time marker	Speaker(s)	Subject(s)	Action required
		revise the term "notice" to "order".	
002140 - 002218	Administration Chairman	Proposed addition of new clause 41A to the Bill	
002219 - 002302	Administration Chairman	Proposed addition of new clause 41B to the Bill	
002303 - 005418	Chairman Administration ALA8 Ms Cyd HO Mr CHEUNG Kwok-che Clerk	<p>Discussion on the Administration's proposed legislative timetable [Appendix II of LC Paper No. CB(2)1723/10-11(01)]</p> <p>ALA drew members' attention to section 32 (1) of the Interpretation and General Clause Ordinance (Cap. 1) and elaborated on the relation between the power of the Secretary for Labour and Welfare to make regulation and the commencement date of the Residential Care Homes (Persons with Disabilities) Ordinance, and the gazettal dates of the Commencement Notice of the Ordinance and the proposed Regulation.</p> <p>The Administration's advice on its intention to gazette the proposed Regulation as early as practicable to allow the RCHD sector to get prepared for the coming into force of the licensing scheme.</p> <p>Members' reiteration on the need to allow due process for the scrutiny of legislation.</p> <p>The Administration agreed to revise the legislative timetable.</p> <p>Members' proposal of forming a subcommittee under the House Committee to study the draft updated Regulation.</p>	
<i>Agenda item II – Any other business</i>			
005419 - 010145	Chairman Administration	Resumption of Second Reading debate on the Bill	