

立法會
Legislative Council

LC Paper No. CB(2) 186/09-10

Ref : CB2/H/5/09

House Committee of the Legislative Council

**Minutes of the 2nd meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 23 October 2009**

Members present :

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon CHEUNG Hok-ming, GBS, JP

Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mr Andy LAU	Acting Principal Council Secretary(Administration)
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Mr Joseph KWONG	Accountant
Ms YUE Tin-po	Chief Council Secretary (1)3
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Arthur LEUNG	Chief Council Secretary (3)1
Mr Timothy TSO	Assistant Legal Adviser 2
Mr Stephen LAM	Assistant Legal Adviser 4
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Ms Clara TAM	Assistant Legal Adviser 9
Mr Anthony CHU	Senior Council Secretary (Administration) 2
Miss Josephine SO	Senior Council Secretary (2)1
Ms Amy YU	Senior Council Secretary (2)3
Mrs Goppi CHENG	Deputy Accountant 1
Ms Katie WONG	Deputy Accountant 3
Mr Ringo LEE	Senior Legislative Assistant (2)1
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

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I. Confirmation of the minutes of the 1st meeting held on 16 October 2009
(LC Paper No. CB(2) 76/09-10)

The minutes were confirmed.

II. Matters arising

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

Special House Committee meeting

2. The Chairman said that she had conveyed to CS Members' request for him to attend a special House Committee meeting to exchange views with Members on the subjects of economic co-operation with Guangdong (including issues relating to the development of Qianhai) and constitutional development. CS had indicated that he would be happy to attend a special House Committee meeting and would make proposals on the date of the meeting and the topics for discussion in due course.

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3. Mrs Regina IP said that apart from Guangdong, economic co-operation with other regions in the Mainland, such as Shanghai, should also be discussed.
4. In response to Ms Emily LAU, the Chairman said that the Legislative Council (LegCo) Secretariat would prepare background briefs for Members' reference after the topics for discussion had been finalized.
5. Ms Emily LAU said that as discussions on the above topics had taken place at committee and Council meetings, it would assist Members if the background briefs would cover the relevant discussions at these meetings.

Maintenance of the LegCo Building

6. Ms Emily LAU expressed concern about the power failure at the LegCo Building which occurred the day before the House Committee meeting.
7. At the invitation of the Chairman, Secretary General said that the power failure occurred at about 11:30 am. After overnight emergency repair by the Electrical and Mechanical Services Department (EMSD), it was found out that the power failure was attributed to the breakdown of three flood lights in the Chamber, which had caused damage to some circuit breakers and disrupted the power supply. As it took time for EMSD to examine the power supply system in the Chamber to ascertain the root cause of the power failure, arrangements had been made to change the venue of the committee meetings scheduled to be held in the afternoon in the Chamber to Conference Room B. After all the committee meetings had ended at about 7:00 pm, EMSD staff proceeded to examine each power source and eventually identified the root cause of the power failure. She added that EMSD would replace the damaged flood lights and some circuit breakers in the coming weekend.
8. Ms Emily LAU opined that the relevant Government departments should be urged to follow up actively the maintenance works in the LegCo Building.
9. The Chairman agreed to convey Ms LAU's view to CS.

(b) Prevention of Bribery Ordinance (Amendment of Schedule 1) Order 2009

(Paragraphs 63 to 66 of the minutes of the 1st meeting held on 16 October 2009)

(Correspondence between the Legal Service Division and the Development Bureau (LC Paper Nos. CB(2) 95/09-10(01) and (02))

[Previous paper:

Paragraphs 7 to 10 of LC Paper No. LS 1/09-10 issued vide LC Paper No. CB(2) 39/09-10 dated 15 October 2009]

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10. The Chairman said that at the last House Committee meeting, Mr James TO sought information on whether other bodies with functions similar to those of the Minor Works Contractors Registration Committee were included in the Schedule. The Administration's reply in this regard had been circulated to Members for reference.

11. Members did not raise any further query on the Order.

12. The Chairman reminded Members that the deadline for amending the Order was 11 November 2009.

(c) **Estate Agents (Licensing) (Amendment) (No. 2) Regulation 2009**
(Paragraphs 67 and 68 of the minutes of the 1st meeting held on 16 October 2009)

[Previous paper:

Paragraphs 19 to 25 of LC Paper No. LS 1/09-10 issued vide LC Paper No. CB(2) 39/09-10 dated 15 October 2009]

13. The Chairman said that at the last House Committee meeting, Members agreed to defer the decision on the Regulation as Mr James TO had indicated that he needed more time to study the legislative scheme concerning a mutual recognition of estate agent qualifications scheme between Hong Kong and the Mainland.

14. Mr James TO expressed concern about some legal issues arising from and related to the Regulation, and considered it necessary to form a subcommittee to study it.

15. The Chairman proposed that a subcommittee be formed to study the Regulation in detail. Members agreed. The following Members agreed to join: Mr James TO, Ms Miriam LAU and Miss Tanya CHAN.

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)**

Telecommunications (Amendment) Bill 2009

(LC Paper No. LS 2/09-10)

16. The Chairman said that the Bill sought to amend the Telecommunications Ordinance (the Ordinance) to provide for matters which the Broadcasting Authority (BA) must satisfy before an application for a sound broadcasting licence could be considered and to empower BA to issue relevant guidelines.

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17. The Chairman further said that the Panel on Information Technology and Broadcasting had been consulted on the legislative proposals at its meeting on 5 October 2009. The Panel supported the proposals in principle, but some members had expressed concern about the threshold of the criteria for the grant of sound broadcasting licences.

18. Ms Emily LAU considered it necessary to form a Bills Committee to study the Bill.

19. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Ms Emily LAU, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr Ronny TONG (as advised by Dr Margaret NG), Mrs Regina IP and Dr Samson TAM.

20. The 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 16 October 2009 and tabled in Council on 21 October 2009**
(*LC Paper No. LS 3/09-10*)

21. The Chairman said that a total of four items of subsidiary legislation were gazetted on 16 October 2009 and tabled in the Council on 21 October 2009.

22. Members did not raise any queries on these four items of subsidiary legislation.

23. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 18 November 2009.

IV. Business for the Council meeting on 4 November 2009

(a) **Questions**
(*LC Paper No. CB(3) 59/09-10*)

24. The 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**

25. The Chairman said that no notice had been received yet.

(c) **Government motion**

Proposed resolution to be moved by the Secretary for Labour and Welfare under the Disability Discrimination Ordinance

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*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 41/09-10 dated 15 October 2009.)
(LC Paper No. LS 4/09-10)*

26. The Chairman said that the proposed resolution was for seeking LegCo's approval of the Disability Discrimination Ordinance (Amendment of Schedule 5) Notice 2009 to amend Schedule 5 to the Disability Discrimination Ordinance to include as further exceptions to the Ordinance the provision of fare concessions by MTR Corporation Limited to persons with disabilities.

27. The Chairman further said that at the Council meeting on 21 October 2009, the Secretary for Labour and Welfare had appealed to Members not to form a subcommittee on the proposed resolution in order to expedite the implementation of the fare concession scheme.

28. Members did not raise any objection to the Administration moving the proposed resolution at the Council meeting.

(d) Members' motions

(i) Motion on "Alleviating the burden of travelling expenses"
(Wording of the motion issued vide LC Paper No. CB(3) 72/09-10 dated 22 October 2009.)

(ii) Motion on "Increasing the supply of medium and small-sized residential flats"
(Wording of the motion issued vide LC Paper No. CB(3) 67/09-10 dated 21 October 2009.)

29. The Chairman said that the above motions would be moved by Mr CHEUNG Hok-ming and Mr LEE Wing-tat respectively and the wording of the motions had been issued to Members.

30. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 28 October 2009.

V. Report of Bills Committees and subcommittees

(a) Report of the Bills Committee on Copyright (Amendment) Bill 2009
(LC Paper No. CB(1) 84/09-10)

31. Dr Samson TAM, Chairman of the Bills Committee, reported that the Bill sought to amend the Copyright Ordinance to provide for the circumstances in which the copying and distribution offence under section 119B(1) of the Ordinance did not apply. The Bills Committee had held six meetings with the Administration and had invited views from the stakeholders in the industry including copyright owners associations and trade associations. He referred Members to the Bills Committee's report for details of its deliberations.

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32. Dr TAM elaborated that members generally supported the policy intent of the Bill to specify that unauthorized use of copyright works not exceeding the prescribed numeric limits did not attract criminal liability under section 119B of the Ordinance. In the course of deliberations, members had raised concern about various issues, including the definition of "infringing page", the operation of the numeric limits, exchange rate, applicability and enforceability of the copying and distribution offence, penalty level and publicity. The Administration had taken on board members' views and would move relevant Committee Stage amendments (CSAs). He added that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting on 18 November 2009.

(b) Report of the Bills Committee on Immigration (Amendment) Bill 2009

(LC Paper No. CB(2) 77/09-10)

33. The Chairman, in her capacity as the Chairman of the Bills Committee, made a report on the deliberations of the Bills Committee as detailed in its report.

34. The Chairman elaborated that the Bills Committee had held three meetings and had received views of deputations. Members in general were supportive of the proposals in the Bill to expand the scope of, and allow the issue of visa other than by endorsement on valid travel documents to facilitate the implementation of immigration convenience measures for Macao residents.

35. On the Administration's proposal to create a new offence to prohibit illegal immigrants and persons who were subject to removal or deportation orders from taking employment or establishing or joining in any business, the Chairman said that members generally appreciated the urgent need to specify the proposed offence to prevent the problem from deteriorating. However, some members considered it inappropriate for the Administration to introduce the new offence when the outcome of its review on the torture claim screening mechanism was still pending. In response to members' concern, the Administration had stressed that the object of the Bill was to tackle the problem of illegal immigrants and other ineligible persons engaging in illegal employment, irrespective of whether the persons concerned were refugees, asylum seekers or torture claimants. The Administration had also advised that it aimed to implement the enhanced screening procedures in October 2009 and undertook to brief the Panel on Security on the legislative proposals to introduce a comprehensive torture claim screening mechanism by the end of 2009.

36. The Chairman added that the Bills Committee would not move any CSAs and supported the resumption of the Second Reading debate on the Bill at the Council meeting on 11 November 2009.

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(c) **Report of the Bills Committee on Bunker Oil Pollution (Liability and Compensation) Bill**

(LC Paper No. CB(1) 85/09-10)

37. The Deputy Chairman, in his capacity as the Chairman of the Bills Committee, made a report on the deliberations of the Bills Committee as detailed in its report. He said that the Bill sought to establish a legal framework to implement the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (the Bunker Oil Convention) by providing for a regime for determining liability and compensation for bunker oil pollution caused by non-tankers.

38. The Deputy Chairman elaborated that the Bills Committee had held four meetings and had received views of the shipping trades. Members generally supported the Bill for the early implementation of the Bunker Oil Convention in Hong Kong to enable owners of ocean-going vessels registered in Hong Kong to obtain the necessary insurance certificates locally. Members noted that a shipowner whose ship had caused pollution damage would be held liable for the damage even if he was not at fault, unless he could prove that the incident was resulted from an exceptional, inevitable and irresistible natural phenomenon. In case the pollution damage was not reasonably separable, the shipowners of the ships concerned should be jointly and severally liable for all the damage.

39. Regarding compulsory insurance liability, the Deputy Chairman said that the Bills Committee noted that the Director of Marine (the Director) was empowered to consider granting exemption to ships which did not carry a valid insurance certificate to enter Hong Kong waters due to exceptional circumstances. Members also noted the Administration's intention that such exemption power would be exercised solely by the Director or the officer acting in the post. At the request of the Bills Committee, the Secretary for Transport and Housing had agreed to state clearly such intention in her speech during the resumption of the Second Reading debate on the Bill.

40. The Deputy Chairman further reported that the Bills Committee had also discussed issues about the definition of "owner" in relation to a vessel, service of notice and the fee payable for an application for an insurance certificate. The Administration would move CSAs on some drafting aspects of the Bill in response to members' views. He added that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting on 11 November 2009.

(d) **Continuation of work of the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products**

(LC Paper No. CB(1) 105/09-10)

41. The Chairman said that the Subcommittee, which commenced its work in late October 2008, considered it necessary to continue its work beyond 12

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months since its commencement. In accordance with rule 26(c) of the House Rules, the Subcommittee should report to the House Committee and give justifications for an extension of the 12-month period.

42. Ir Dr Raymond HO, Chairman of the Subcommittee, reported the latest progress of work of the Subcommittee and the need for it to continue its work in the 2009-2010 session. He said that at the meeting on 17 October 2008, the House Committee endorsed the setting up of a subcommittee to study issues arising from Lehman Brothers-related Minibonds and structured financial products. The House Committee also endorsed the proposal for the subcommittee to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), and the relevant motion was passed at the Council meeting on 12 November 2008. The Subcommittee was the first subcommittee set up under the House Committee which had been authorized to exercise the power to summon witnesses under Cap. 382. It had drawn up its practice and procedure, which was endorsed by the House Committee at its meeting on 28 November 2008.

43. Ir Dr HO further reported that the Subcommittee currently comprised 21 members. Having regard to the complexity and wide range of issues involved in the study, the Subcommittee had decided to undertake the study by stages and had drawn up a tentative work plan. Since its first meeting on 27 October 2008, the Subcommittee had so far held 21 meetings to deliberate on matters related to its study as well as 21 open hearings to receive evidence from witnesses from the Administration and relevant regulatory bodies. He referred Members to the paper for details of the progress of the Subcommittee's work. He added that at its meeting on 6 October 2009, the Subcommittee considered that to take forward the remaining stages of its work, it was necessary for it to continue its work in the 2009-2010 session.

44. Members noted the latest progress of work of the Subcommittee and agreed with its continuation of work in the 2009-2010 session.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 78/09-10)

45. The Chairman said that there were 11 Bills Committees, eight subcommittees under the House Committee (i.e. four subcommittees on subsidiary legislation and four subcommittees on policy and other issues) and seven subcommittees under Panels in action.

46. The Chairman invited Members to note that the Bills Committee on Arbitration Bill would have to work beyond three months since commencement of its work.

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VII. Report of the Subcommittee on Poverty Alleviation under the Panel on Welfare Services on its duty visit to study the experience of poverty alleviation and the development of social enterprises in Taiwan and the Republic of Korea

(LC Paper No. CB(2) 23/09-10)

47. Mr Frederick FUNG, leader of the delegation, said that the delegation of the Subcommittee appointed under the Panel on Welfare Services had visited Taiwan and the Republic of Korea from 19 to 25 July 2009 to study the experiences of poverty alleviation and development of social enterprises in these places.

48. Mr FUNG further said that the delegation had met with government officials, parliamentarians and representatives of not-for-profit organizations, and had also visited some social enterprises. The delegation considered the visit very fruitful and provided useful reference for the Subcommittee in studying measures for poverty alleviation and further development of social enterprises in Hong Kong. He referred Members to the Subcommittee's report (the Report) for the findings and observations of the delegation.

49. Ms Emily LAU enquired whether the Subcommittee would request the House Committee for an allocation of a debate slot to move a motion for debate on the Report at a Council meeting, having regard to the wide public concern on the subject of poverty alleviation.

50. Mr Frederick FUNG thanked Ms Emily LAU for her suggestion. He said that the Subcommittee would hold a press conference after the House Committee meeting to highlight the findings and observations of the visit. He further said that the Panel on Welfare Services had agreed that the Subcommittee should continue its work in the current session. As the membership of the Subcommittee had to be re-opened, the Subcommittee had yet to convene its first meeting in the current session. He would relay Ms Emily LAU's suggestion to the Subcommittee for consideration at its meeting.

VIII. Election of Members of The Legislative Council Commission

(LC Paper No. AS 34/09-10)

51. The Chairman said that The Legislative Council Commission Ordinance provided that the membership of the Commission included the President of LegCo, the Chairman and the Deputy Chairman of the House Committee, and not more than 10 other members elected by and from amongst LegCo Members.

52. The Chairman further said that nine valid nominations for election to The Legislative Council Commission had been received by the deadline of 19 October 2009. The Chairman asked whether there were any further nominations.

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53. After ascertaining that there was no further nomination, the Chairman declared the following nine nominees elected as members of The Legislative Council Commission -

Mr LEE Cheuk-yan
Dr Margaret NG
Dr Philip WONG
Ms Emily LAU
Mr Andrew LEUNG
Mr WONG Ting-kwong
Prof Patrick LAU
Ms Cyd HO
Mr IP Kwok-him

IX. Any other business

54. There being no other business, the meeting ended at 2:54 pm.

Council Business Division 2
Legislative Council Secretariat
4 November 2009