

立法會
Legislative Council

LC Paper No. CB(2) 299/09-10

Ref : CB2/H/5/09

House Committee of the Legislative Council

**Minutes of the 4th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 13 November 2009**

Members present :

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon David LI Kwok-po, GBM, GBS, JP
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon LI Fung-ying, BBS, 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
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Starry LEE Wai-king
Dr Hon LAM Tai-fai, BBS, JP
Hon Paul CHAN Mo-po, MH, JP

Hon CHAN Kin-por, JP
Hon Tanya CHAN
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon WONG Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yea, GBS, JP
Dr Hon PAN Pey-chyou
Dr Hon Samson TAM Wai-ho, JP

Members absent :

Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon CHAN Kam-lam, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS, JP
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Dr Hon Priscilla LEUNG Mei-fun
Hon WONG Yuk-man
Hon Paul TSE Wai-chun

Clerk in attendance :

Mrs Vivian KAM Clerk to the House Committee

Staff in attendance :

Ms Pauline NG	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mrs Constance LI	Assistant Secretary General 1
Mrs Justina LAM	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General (Special Duty)
Ms Connie FUNG	Senior Assistant Legal Adviser 1

Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Colin CHUI	Chief Council Secretary (3)2
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Ms Amy YU	Senior Council Secretary (2)3
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 3rd meeting held on 6 November 2009
(LC Paper No. CB(2) 245/09-10)**

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that there was nothing special to report.

Special House Committee meeting

3. In response to Mrs Regina IP, the Chairman said that she had been following up with CS on the date of the special House Committee meeting, and CS had yet to propose a date. The Chairman undertook to follow up with CS again.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 6 November 2009 and tabled in Council on 11 November 2009

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

4. The Chairman said that a total of five items of subsidiary legislation were gazetted on 6 November 2009 and tabled in the Council on 11 November 2009.

5. Regarding the Employees Retraining Ordinance (Amendment of Schedule 2) (No. 2) Notice 2009, the Chairman said that it sought to amend Schedule 2 to the principal Ordinance by adding four organizations, i.e. Monita

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Hair & Beauty Academy; Hospital & Clinic Nurses Association; Division of Continuing and Professional Education, School of Chinese Medicine, Hong Kong Baptist University; and Occupational Safety and Health Council.

6. Mr James TO sought information on the background of Monita Hair & Beauty Academy. He noted that normally the organizations included onto the Schedule were well-known training bodies. He suggested that a decision on the Notice be deferred to the next House Committee meeting.

7. Mrs Sophie LEUNG said that to her understanding, the Academy had been providing training in the hair and beauty sector for over 20 years.

8. As Mr James TO considered it appropriate to seek the information from the Administration, the Chairman requested the Legal Service Division to follow up the matter.

9. Members agreed to defer the decision on the Notice to the next House Committee meeting pending the provision of the requisite information by the Administration.

10. Members did not raise any queries on the other four items of subsidiary legislation.

11. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 9 December 2009.

IV. Business for the Council meeting on 25 November 2009

(a) **Questions**
(*LC Paper No. CB(3) 143/09-10*)

12. 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**

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

(c) **Government motion**

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

15. Mr James TO said that as it was widely reported that the Administration would announce its proposals for constitutional development in the following week, he enquired whether notice had been by the Administration for the moving of a motion in this regard.

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16. The Chairman said that it was not necessary for the Administration to move a motion for the purpose. A designated public officer might make a statement on any issue concerning public interest at a Council meeting, and a notice period was not required. She further said that the Secretariat had not received any notification from the Administration of its intention to make a statement concerning constitutional development at the Council meeting on 18 November 2009.

(d) Members' motions

(i) Motion to be moved by Hon WONG Kwok-kin

17. The Chairman said that the subject of the motion to be moved by Mr WONG Kwok-kin was "Enhancing employment support and creating employment opportunities".

(ii) Motion to be moved by Dr Hon PAN Pey-chyou

18. The Chairman said that the subject of the motion to be moved by Dr PAN Pey-chyou was "Support for people with mental illness and people recovering from mental illness".

19. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 18 November 2009.

V. Report of Bills Committees and subcommittees

Report of the Subcommittee on Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) (Amendment) Regulation 2009

(LC Paper No. CB(1) 324/09-10)

20. Ms Audrey EU, Chairman of the Subcommittee, reported that the Subcommittee supported in principle the Amendment Regulation which sought to ban the import of controlled products containing ozone depleting substances in phases from 1 January 2010 to 1 January 2020 to enable Hong Kong to fulfil its obligations under the Montreal Protocol on Substances that Deplete Ozone Layer (Montreal Protocol).

21. Ms EU elaborated that the only type of ozone depleting substances that could still be imported into Hong Kong for local consumption was hydrochlorofluorocarbons (HCFC). Virtually, all HCFCs were used as refrigerants. To ensure full compliance with the accelerated phasing-out programme under the Montreal Protocol, the Amendment Regulation proposed to ban the import of refrigeration, air-conditioning and other products

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containing HCFCs as refrigerants. Taking into account the need to allow more time for suppliers to prepare for sourcing and importing HCFC-free room air-conditioners, the Administration had decided to defer the banning of split type and window type room air-conditioners to 1 July 2010 and 1 July 2012 respectively, after consultation with the trade.

22. Ms EU further reported that other than split type and window type room air-conditioners, other types of air-conditioners would need to be phased out by 1 January 2010. The Subcommittee had noted a deputation's view that such an arrangement might cause confusion to the trade and the public. The Subcommittee had examined the feasibility of deferring the deadline for other types of air conditioners to 1 July 2010 in tandem with split type room air-conditioners. According to the Administration, the trade had only expressed concern during consultation that suppliers needed more time to set up production lines for HCFC-free room air-conditioners and not other types of air-conditioners. The Administration held the view that the phasing-out programme should only be reviewed if there was a problem in the trade-wide supply of HCFC-free air-conditioners. If the problem involved individual suppliers only, the extension would be unfair to other complying suppliers.

23. Ms EU further said that in view of the ozone depleting property of HCFC, the Subcommittee had stressed the need to ensure proper disposal of air-conditioners containing HCFC to prevent the release of the chemicals to the atmosphere. The Subcommittee considered that the Administration's input was essential in the recycling of HCFC as this would require technical know-how. The Administration explained that subject to the outcome of public consultation to be conducted later this year on the proposed introduction of a mandatory producer responsibility scheme on waste electrical and electronic equipment, it would consider whether the proposed scheme would cover air-conditioners. Due consideration would also be given to handling HCFC recovered from air conditioners collected under the scheme in an environmentally sound manner. Meanwhile, the Administration had consulted the trade and had finalized a code of good practice to help the trade to recover HCFC from the existing air conditioners. A leaflet would also be prepared to help increase public awareness in this respect. Ms EU added that the Subcommittee would not move any amendments.

24. The Chairman said that the Subcommittee supported the Administration giving fresh notice to move the motion on the Amendment Regulation at the Council meeting on 2 December 2009.

VI. Position on Bills Committees and subcommittees
(*LC Paper No. CB(2) 246/09-10*)

25. The Chairman said that there were 11 Bills Committees, eight subcommittees under the House Committee (i.e. five subcommittees on

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subsidiary legislation and three subcommittees on policy issues) and seven subcommittees under Panels in action.

VII. Paper of the Committee on Rules of Procedure (CRoP)

Proposed procedure for holding debates in Council on subsidiary legislation and other instruments tabled in Council to which no amendment has been proposed

(LC Paper No. CROP 7/09-10)

26. Dr Margaret NG, Deputy Chairman of CRoP, made a report on behalf of its Chairman Mr TAM Yiu-chung on CRoP's proposed procedural arrangements for holding debates in Council on subsidiary legislation and other instruments tabled in Council to which no amendment had been proposed as well as the draft amendments to the Rules of Procedure ("RoP") and House Rules ("HR") for implementing the arrangements.

27. Dr NG explained that under the current RoP and HR, a Member might speak on an item of subsidiary legislation or instrument tabled in Council to which no amendment had been proposed in the form of:

- (a) an address under Rule 21(5) of RoP, but no debate might arise on the address;
- (b) a motion debate not intended to have legislative effect; or
- (c) an adjournment debate under Rule 16(4) of RoP.

28. Dr NG elaborated that the House Committee had earlier on invited CRoP to conduct a study on providing a standing arrangement to enable Members to speak on subsidiary legislation or instruments tabled in Council to which no amendment had been proposed. After the study, CRoP proposed that the Chairman of the House Committee presented a report on the subsidiary legislation and other instruments to the Council at its meeting immediately before the expiry of the scrutiny period of such subsidiary legislation and instruments. Should a Member notify the House Committee that a debate should be held on any of the subsidiary legislation or other instruments, the Chairman of the House Committee would give notice of a motion to take note of the House Committee report in relation to that subsidiary legislation or instrument. Where a motion to take note of a House Committee report covered more than one item of subsidiary legislation or instrument, the debate on the motion might be divided into separate sessions, with each session focusing on one or more items of subsidiary legislation or instruments which were related, as decided by the House Committee.

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29. Regarding the number of times a Member might speak in the debate on the motion, Dr NG said that a Member, including the mover of the motion, might speak only once in the debate, or in each session of the debate if it had been divided into sessions. CROp had also studied the question of whether the speaking time limit for each Member should be seven or 15 minutes. As the subject matter discussed in the motion debate had legislative effect, CROp came to the view that the speaking time limit for each Member should be 15 minutes, or 15 minutes at each session of the debate. CROp also proposed that if there was a motion to amend an item of subsidiary legislation or instrument, no motion to take note of the House Committee report on such subsidiary legislation or instrument should be moved, in order to avoid having the same item of subsidiary legislation or instrument debated twice in Council.

30. Dr NG added that the proposed procedures were set out in paragraph 7 of the paper and the draft amendments to RoP and HR in the Appendix to the paper. Subject to Members' views, Mr TAM Yiu-chung, as Chairman of CROp, would move a motion at the Council meeting on 2 December 2009 to amend RoP as proposed. Should the amendments to RoP be passed by the Council, amendments to HR would be made accordingly.

31. Members endorsed the proposed procedures and amendments to RoP and HR.

VIII. Any other business

32. There being no other business, the meeting ended at 2:48 pm.

Council Business Division 2
Legislative Council Secretariat
18 November 2009