

立法會
Legislative Council

LC Paper No. CB(2) 496/09-10

Ref : CB2/H/5/09

House Committee of the Legislative Council

**Minutes of the 7th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 4 December 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 David LI Kwok-po, GBM, GBS, JP
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, 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 LEUNG Kwok-hung
Hon CHEUNG Hok-ming, GBS, JP

Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Hon Tanya CHAN
Dr Hon Priscilla LEUNG Mei-fun
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Dr Hon PAN Pey-chyou
Dr Hon Samson TAM Wai-ho, JP

Members absent :

Hon CHEUNG Man-kwong
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Starry LEE Wai-king
Dr Hon LAM Tai-fai, BBS, JP
Hon WONG Sing-chi
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 Bonny LOO	Assistant Legal Adviser 3
Mr YICK Wing-kin	Assistant Legal Adviser 8
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 6th meeting held on 27 November 2009
(*LC Paper No. CB(2) 417/09-10*)

The minutes were confirmed.

II. Matters arising

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

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

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 27 November 2009 and tabled in Council on 2 December 2009
(*LC Paper No. LS 23/09-10*)

3. The Chairman said that two items of subsidiary legislation, including one Commencement Notice, were gazetted on 27 November 2009 and tabled in the Council on 2 December 2009.

4. Members did not raise any queries on these two items of subsidiary legislation.

5. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 16 December 2009.

IV. Further business for the Council meeting on 9 December 2009

Bills - First Reading and moving of Second Reading

Buildings Energy Efficiency Bill

6. The Chairman informed Members that the Administration had given notice to present the above Bill to the Council on 9 December 2009. The House Committee would consider the Bill at its next meeting on 11 December 2009.

V. Business for the Council meeting on 16 December 2009

(a) Questions

(LC Paper No. CB(3) 220/09-10)

7. 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

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

(c) Bills - resumption of debate on Second Reading, Committee Stage and Third Reading

Import and Export (Amendment) Bill 2009

9. The Chairman said that at the House Committee meeting on 20 November 2009, Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(d) Government motion

Proposed resolution to be moved by the Secretary for Food and Health under the Pharmacy and Poisons Ordinance relating to:

(i) the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2009; and

(ii) the Poisons List (Amendment) (No. 4) Regulation 2009

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 208/09-10 dated 27 November 2009.)

(LC Paper No. LS 22/09-10)

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10. The Chairman said that the proposed resolution was for seeking the Legislative Council's approval to amend the Pharmacy and Poisons Regulations (the principal Regulations) and Poisons List Regulations to add six substances to Division A of Part I of the Poisons List as contained in the Poisons List Regulations and Division A of the First and Third Schedules to the principal Regulations, so that pharmaceutical products containing any of these substances could only be sold on registered premises of an authorized seller of poisons by a registered pharmacist or in his presence and under his supervision, with the support of prescriptions given by a registered medical practitioner, registered dentist or registered veterinary surgeon.

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

(e) **Members' motions**

(i) **Motion to be moved by Hon Mrs Regina IP LAU Suk-yee**

12. The Chairman said that the subject of the motion to be moved by Mrs Regina IP was "Formulating operational standards for public organizations".

(ii) **Motion to be moved by Hon CHAN Kin-por**

13. The Chairman said that the subject of the motion to be moved by Mr CHAN Kin-por was "Urging the Government to promote a new occupational culture campaign for work-life balance".

14. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 9 December 2009.

VI. Report of Bills Committees and subcommittees

(a) **Report of the Bills Committee on Domestic Violence (Amendment) Bill 2009**

(LC Paper No. CB(2) 418/09-10)

15. Mr LEE Cheuk-yan, Chairman of the Bills Committee, reported that the Bills Committee had held six meetings and had completed scrutiny of the Bill, which sought to amend the Domestic Violence Ordinance to extend its scope of protection to cover same-sex cohabitants. He referred Members to the Bills Committee's report for details of its deliberations.

16. Mr LEE elaborated that in the light of members' views, the Administration would propose Committee Stage amendments (CSAs) to the Bill, including amending the proposed definition of "cohabitation relationship" to cover a relationship between two persons whether of the same sex or of the

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opposite sex and adding the factors for determining whether two persons were in a cohabitation relationship. The Bills Committee supported the Administration's proposed amendments.

17. Mr LEE further reported that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting on 16 December 2009. The Administration would publish in the Gazette on 31 December 2009 the Commencement Notice to appoint 1 January 2010 as the commencement date of the amended Ordinance, and table the Notice in the Council on 6 January 2010. In order for the amended Ordinance to come into operation as early as practicable, the Bills Committee supported the commencement of the amended Ordinance on 1 January 2010.

18. Mr LEE further said that the Bills Committee noted Dr Margaret NG's intention to move an amendment to the proposed definition of "cohabitation relationship", although Dr NG had not invited the Bills Committee to discuss or consider supporting her proposed amendment. Dr Priscilla LEUNG might also consider amending the proposed definition of "cohabitation relationship". He invited Members to note the deadline for giving notice of CSAs on 7 December 2009.

(b) Report of the Bills Committee on Public Officers Pay Adjustment Bill

(LC Paper No. CB(1) 543/09-10)

19. Mr IP Kwok-him, Chairman of the Bills Committee, reported that the Bill sought to reduce the pay of the following public officers by 5.38% -

- (a) civil servants remunerated on pay points on civil service pay scales/Hospital Authority pay scales and public officers remunerated on pay points of the Independent Commission Against Corruption (ICAC) Pay Scale with a dollar value exceeding \$48,400;
- (b) Director of Audit; and
- (c) other public officers with a monthly pay of more than \$48,400 who were not civil servants or ICAC officers,

subject to the proviso that no pay point in the upper salary band after the adjustment should be lower than \$48,700, in order that the bottom pay point of the upper salary band was \$300 above the upper limit of the middle salary band.

20. Mr IP elaborated that the Bills Committee had held six meetings and had received views from public bodies (mainly staff associations in the civil service) and subvented organizations. One of the major concerns of the Bills Committee was that while the Government had decided to freeze the pay of

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civil servants in the lower and middle salary bands, the pay of civil servants in the upper salary band and above was cut by 5.38% which was exactly the same as the 2009 net pay trend indicator of the upper salary band. Members queried why the Administration, after taking into account the same factors, had decided to reduce only the pay of civil servants in the upper salary band and above without any moderation.

21. Mr IP further reported that the Bills Committee noted that the findings of the 2009 Pay Trend Survey were not unanimously accepted and validated by members of the Pay Trend Survey Committee. Some members had requested the Administration to consider moving amendments to the Bill to reduce the proposed adjustment. Other members had requested the Administration to consider various counter proposals with a view to finding a middle ground that might be acceptable to those who would be affected, such as the proposal of moderating the pay reduction rate having regard to the inflation rate. Concern had been expressed by some members that the proposed pay reduction might trigger off a spate of wage cuts in the private sector and hence adversely affect economic recovery. Some members had indicated objection to the implementation of civil service pay reductions by legislation on the ground that it was an abuse of the legislative system and in breach of the contractual spirit.

22. Mr IP said that as at the conclusion of work of the Bills Committee, no members had indicated their intention to move CSAs to the Bill. The Administration would move CSAs to Part 1 of the Schedule to the Bill to make corresponding amendments to the relevant pay scales following the decision of the Chief Executive-in-Council on 20 October 2009 to accept the salary and increment-related recommendations in the Grade Structure Review Reports on the civilian directorate and the disciplined services. The Bills Committee had no objection to the proposed amendments, which were technical in nature.

23. Mr IP added that the Administration had indicated its intention to resume the Second Reading debate on the Bill on 16 December 2009. At the Bills Committee meeting on 20 November 2009, the Bills Committee passed a motion moved by Mrs Regina IP opposing to the resumption of the Second Reading debate on the Bill. He had requested the Administration to take into consideration the motion passed by the Bills Committee.

24. Members noted the report of the Bills Committee.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 421/09-10)

25. The Chairman said that there were nine Bills Committees, five subcommittees under the House Committee (i.e. two subcommittees on subsidiary legislation and three subcommittees on policy issues) and six subcommittees under Panels in action. There was one subcommittee on policy issue on the waiting list.

VIII. Reactivation and commencement of work of the Subcommittee on Combating Fly-tipping under the Panel on Environmental Affairs
(*LC Paper No. CB(1) 546/09-10*)

26. Ms Audrey EU, Chairman of the Panel on Environmental Affairs (the Panel), said that the problem of fly-tipping had all along been a public concern. To enable more focused discussion on Government's efforts in tackling fly-tipping, the Panel decided at its meeting on 30 March 2009 to set up the Subcommittee to review the existing policies on enforcement against such activities and suggest improvement measures as and when necessary. The Subcommittee was expected to complete its work within the 2008-2009 session.

27. Ms EU further said that during the 2008-2009 session, the Subcommittee had examined the enhanced inter-departmental coordination and enforcement actions against fly-tipping and illegal land filling activities, as well as proposed measures to strengthen control against such activities. The Subcommittee was dissolved after submission of its report to the Panel in August 2009.

28. Ms EU added that in view of the prevalence of fly-tipping and illegal land filling activities, as well as the slow progress in implementing measures to combat such activities by the Administration, the Panel decided at its meeting on 23 November 2009 to seek the approval of the House Committee to reactivate the Subcommittee. As there were already nine subcommittees on policy issues in action, which exceeded the quota of eight, the Subcommittee had been put on the waiting list automatically, and would not be able to commence work until two existing subcommittees had finished their work, or unless the House Committee gave its approval. She appealed to Members to support the reactivation of the Subcommittee and the commencement of its work immediately.

29. The Chairman drew Members' attention to rule 26(b) of the House Rules, which stipulated that where the number of Bills Committees in operation was less than 16, the House Committee might activate subcommittees on the waiting list after having considered the following -

- (i) the number of vacant slots for Bills Committees;
- (ii) the number of bills likely to be introduced to the Council in the next three months;
- (iii) the number of subcommittees on subsidiary legislation already or likely to be appointed by the House Committee; and
- (iv) the availability of resources in the Secretariat.

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30. Regarding (i) above, the Chairman said that currently nine Bills Committees were in action, and there were seven vacant Bills Committee slots.

31. At the invitation of the Chairman, Secretary General (SG) briefed Members on the existing and anticipated workload of the Secretariat. SG elaborated that as nine Bills Committees were currently in action and another eight were expected to be appointed in the coming three months, the number of Bills Committees in operation would likely reach the quota of 16 in the next three months. Coupled with the fact that nine subcommittees on policy issues were in operation and had exceeded the quota of eight, the manpower resources of the Secretariat had been stretched to the limit. SG added that in the paper submitted for the House Committee meeting on 20 November 2009 on the proposed continuation of work of five subcommittees on policy issues, Members were advised that notwithstanding the current staffing complement of the Secretariat to cater for a maximum number of 48 committees only, the Secretariat would try to absorb the servicing of 55 committees. As no Bills Committee had been formed to study the Import and Export (Amendment) Bill 2009, the Secretariat would be able to cope with the servicing of one more subcommittee. SG further said that as some new recruits were expected to report duty in about two months' time, she hoped that the Subcommittee, if reactivated, would commence its work at a later stage when there would be a fuller staff complement in the Secretariat.

32. The Chairman invited Members' views on the proposed reactivation of the Subcommittee.

33. Mr IP Kwok-him said that while he agreed on the need to study the problem of fly-tipping, the factors to be considered were not only the availability of resources in the Secretariat but also the capacity of Members to cope with the work of a large number of subcommittees. He observed that some committees had already had difficulties in having a quorum at their meetings; the availability of venues for holding meetings should also be considered. In his view, instead of forming a subcommittee, the Panel might consider convening special meetings to study the subject matter. He added that whilst SG had indicated that the Secretariat would make its best endeavour to complement the work of Members, Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) were concerned about the capacity of Members to cope with the work of a large number of subcommittees.

34. The Chairman said that in terms of work to Members, the holding of special meetings by the Panel or by the Subcommittee did not have much difference.

35. Mr IP Kwok-him said that should a subcommittee be appointed to study certain subject matters, there would be a greater tendency to hold more meetings. He expressed reservations about the proposed reactivation of the Subcommittee.

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36. Ms Emily LAU said that she was not a member of the Panel. In her view, if the Panel considered it necessary to reactivate the Subcommittee and the Secretariat could cope with the additional workload, the Subcommittee should be allowed to commence its work. She stressed that one of the main functions of the Legislative Council was to monitor Government policies, and Members should discharge their work as long as resources were available to complement the work. She would not accept Members not taking up a task which was considered necessary and where resources permitted.

37. Mr IP Kwok-him clarified that he had not said that Members should not follow up the matter. He had only pointed out that in considering whether the Subcommittee should be reactivated, Members should take into account their capacity to cope with the anticipated work.

38. The Chairman also pointed out that Mr IP Kwok-him had only raised his concern about the capacity of Members to cope with the additional work.

39. Ms Emily LAU considered that as the proposal to reactivate the Subcommittee was made by the Panel, the Panel Chairman should clarify whether Panel members could cope with the additional work to be generated.

40. Ms Audrey EU said that the problem of fly-tipping was a common concern to Members belonging to different political parties and groupings, in particular Members returned by geographical constituencies in the New Territories. During the Third Legislative Council, the Panel had convened special meetings to discuss the matter without appointing a subcommittee. In view of the lack of progress in tackling the problem, at the suggestion of Mr LEE Wing-tat, the Subcommittee was formed under the Panel in the 2008-2009 session to study the matter. Under the chairmanship of Mr LEE Wing-tat, the Subcommittee was then expected to complete its work in the 2008-2009 session and had submitted its report to the Panel in August 2009. However, as the Administration was slow in implementing measures to combat fly-tipping, Mr LEE considered it necessary to reactivate the Subcommittee in the current session. According to her understanding, Mr LEE had undertaken several rounds of consultation with all Panel members before formally raising his proposal with the Panel, and Panel members belonging to different political parties and groupings, including Mr CHEUNG Hok-ming and Mr CHAN Hak-kan of DAB, had indicated their support for reactivating the Subcommittee. When the proposal was discussed at the Panel meeting on 23 November 2009, the Panel decided to seek the approval of the House Committee to reactivate the Subcommittee.

41. The Chairman said that as only nine Bills Committees were in operation, the Secretariat was able to cope with the servicing of the Subcommittee. However, the resources in the Secretariat would be stretched to the limit when the number of Bills Committees in operation reached the quota of 16. In her view, should the Subcommittee be reactivated, it should take into account the capacity of the Secretariat in scheduling its meetings.

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42. Ms Audrey EU believed that the Chairman of the Subcommittee would certainly take this into account when planning its work.

43. Mr LEE Wing-tat said that when the proposal to reactivate the Subcommittee was discussed, members belonging to different political parties and groupings, including Mr CHEUNG Hok-ming, agreed that the problem of illegal land filling activities, particularly in the New Territories, had not been improved and had expressed support for the proposal. As there were signs that the Administration might change its mind on legislating on the matter and several cases including the Ho Sheung Heung case had yet to be dealt with, the Panel agreed unanimously that the Subcommittee should be reactivated. He agreed in principle that subcommittees on policy issues should not continue their work indefinitely. He considered that a timeframe of say six months could be given to the Subcommittee to complete its work.

44. The Chairman invited Members' view on the proposal that the Subcommittee be given six months to complete its work, in anticipation of the formation of more Bills Committees in the next three months.

45. Mr CHEUNG Hok-ming said that members of the Panel had agreed on the need to reactivate the Subcommittee and had put forth the proposal for the House Committee for consideration. The Panel members noted that unless the House Committee approved the reactivation of the Subcommittee, it had to be put on the waiting list.

46. SG reiterated that as some new recruits were expected to report for duty in about two months' time, she hoped that the Subcommittee, if reactivated, would commence its work at a later stage. SG pointed out that should the timeframe of work of the Subcommittee be condensed to six months, the workload on the Secretariat would be even more pressing.

47. In concluding the discussions, the Chairman said that the Subcommittee could be reactivated. While the Subcommittee should complete its work within a year, it should aim to finish its work earlier where feasible. Members agreed.

IX. Any other business

48. There being no other business, the meeting ended at 2:57 pm.