

立法會
Legislative Council

LC Paper No. CB(2) 1891/09-10

Ref : CB2/H/5/09

House Committee of the Legislative Council

**Minutes of the 27th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 18 June 2010**

Members present :

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
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
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 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 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 CHEUNG Hok-ming, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king

Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Hak-kan
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun
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-yeek, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Tanya CHAN
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man

Members absent :

Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon CHIM Pui-chung

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 Duties)
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Kelvin LI	Acting Chief Public Information Officer
Miss Odelia LEUNG	Chief Council Secretary (2)6

Mr Arthur LEUNG	Chief Council Secretary (3)1
Mr Bonny LOO	Assistant Legal Adviser 3
Mr YICK Wing-kin	Assistant Legal Adviser 8
Ms Clara TAM	Assistant Legal Adviser 9
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 26th meeting held on 11 June 2010
(*LC Paper No. CB(2) 1813/09-10*)

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.

Legislative Programme 2009-2010

3. Mr Ronny TONG enquired about the number of bills on the Legislative Programme for the current session which had yet to be introduced into the Council.

4. The Chairman said that of the 21 Bills included in the Legislative Programme for the current session, 15 Bills had already been introduced or scheduled for introduction into the Council, including the four Bills to be presented to the Council on 30 June 2010, and six Bills had yet to be introduced into the Council.

III. Legal Service Division report on subsidiary legislation gazetted on 11 June 2010

(*LC Paper No. LS 75/09-10*)

5. The Chairman said that two items of subsidiary legislation, including one Commencement Notice, were gazetted on 11 June 2010. They would be tabled in the Council on 23 June 2010.

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

7. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was the second meeting of the Legislative Council ("LegCo") in the next session.

IV. Further business for the Council meeting on 23 June 2010

(a) Tabling of papers

**Report No. 14/09-10 of the House Committee on Consideration of
Subsidiary Legislation and Other Instruments**

*(LC Paper No. CB(2) 1815/09-10 issued vide LC Paper No. CB(3)
795/09-10 dated 17 June 2010)*

8. The Chairman said that the report covered 14 items of subsidiary legislation, including the Fugitive Offenders (South Africa) Order, the period for amendment of which would expire on 23 June 2010. As a Member had notified his intention to speak on the Order, she, as Chairman of the House Committee, would move a motion to take note of the report in relation to the Order.

(b) Bills - First Reading and moving of Second Reading

Supplementary Appropriation (2009-2010) Bill

9. The Chairman said that the Administration had given notice to present the above Bill to the Council. The House Committee would consider the Bill at its next meeting on 25 June 2010.

(c) Members' motions

**Proposed resolution to be moved by Hon Miriam LAU Kin-yee
under section 34(4) of the Interpretation and General Clauses
Ordinance relating to the Tate's Cairn Tunnel Ordinance
(Amendment of Schedule) Notice 2010**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3)
787/09-10 dated 11 June 2010.)*

10. The Chairman said that she, in her capacity as Chairman of the Subcommittee on Tate's Cairn Tunnel Ordinance (Amendment of Schedule) Notice 2010, would move a motion at the Council meeting to extend the scrutiny period of the Notice to 14 July 2010.

V. Business for the Council meeting on 30 June 2010

(a) Questions

(LC Paper No. CB(3) 791/09-10)

11. 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**

- (i) **Legal Practitioners (Amendment) Bill 2010**
- (ii) **Matrimonial Proceedings and Property (Amendment) Bill 2010**
- (iii) **Residential Care Homes (Persons with Disabilities) Bill**
- (iv) **Communications Authority Bill**

12. The Chairman said that the Administration had given notice to present the above four Bills to the Council. The House Committee would consider these Bills at its meeting on 2 July 2010.

(c) **Government motion**

Proposed resolution to be moved by the Secretary for Labour and Welfare under the Employees' Compensation Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 782/09-10 dated 10 June 2010.)

(LC Paper No. LS 74/09-10)

13. The Chairman said that the proposed resolution was for seeking LegCo's approval to amend the Sixth Schedule to the Employees' Compensation Ordinance to increase the amounts prescribed for the calculation of various heads of compensation/surcharge payable under the Ordinance by 2.34%. She added that the Panel on Manpower had been briefed on 23 February 2010 of the proposed revisions, and members generally supported the proposal.

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

(d) **Members' motions**

(i) **Proposed resolution to be moved by Hon TAM Yiu-chung under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 792/09-10 dated 15 June 2010.)

15. The Chairman said that Members noted at the last House Committee meeting that Mr TAM Yiu-chung, Chairman of the Committee on Rules of Procedure ("CRoP"), would move a motion at the Council meeting to amend Rule 49(4) and (6) of the Rules of Procedure ("RoP") regarding the arrangement for shortening the duration of the division bell.

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(ii) Motion to be moved by Hon CHEUNG Man-kwong

16. The Chairman said that the subject of the motion to be moved by Mr CHEUNG Man-kwong was "Safeguarding Hong Kong people's freedom of expression".

(iii) Motion to be moved by Hon LAU Kong-wah

17. The Chairman said that the subject of the motion to be moved by Mr LAU Kong-wah was "Policy on elderly housing".

18. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 23 June 2010.

Report on subsidiary legislation the period for amendment of which would expire on 30 June 2010

19. The Chairman said that the list of subsidiary legislation the period for amendment of which would expire on 30 June 2010 had been tabled at the meeting. Members who wished to speak on the two items of subsidiary legislation should notify the Clerk by 5:00 pm on Tuesday, 22 June 2010.

VI. Report of Bills Committees and subcommittees

(a) Report of the Bills Committee on Deposit Protection Scheme (Amendment) Bill 2010

(LC Paper No. CB(1) 2256/09-10)

20. Mr CHAN Kam-lam, Chairman of the Bills Committee, reported that the Bill sought to improve depositor protection and operating efficiency under the Deposit Protection Scheme ("the Scheme"). The main proposals included expanding the Scheme's coverage to include secured deposits and raising the limit on the total amount of compensation from \$100,000 to \$500,000 for each depositor under the Scheme.

21. Mr CHAN Kam-lam further reported that the Bills Committee had held three meetings with the Administration. The major issues discussed by the Bills Committee included -

- (a) the types of deposit that were currently not under the protection of the Scheme but would be so under the Bill;
- (b) the mechanism for depositors to appeal against the amount of compensation as decided by the Hong Kong Deposit Protection Board ("the Board");
- (c) the factors to be taken into consideration by the Board in determining whether it should make an interim payment and the conditions under which the Board might make such payment; and

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- (d) how the public would be informed of the changes to the protection status of their deposits after the lifting of the temporary full deposit guarantee and the implementation of the enhanced Scheme on 1 January 2011.

22. Mr CHAN Kam-lam added that the Bills Committee agreed to the Administration's proposed Committee Stage amendments ("CSAs") and supported the resumption of the Second Reading debate on the Bill at the Council meeting on 30 June 2010. He referred Members to the report for the details of deliberations of the Bills Committee.

23. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 21 June 2010.

(b) Report of the Bills Committee on Companies (Amendment) Bill 2010 and Business Registration (Amendment) Bill 2010

24. Mr Paul CHAN, Chairman of the Bills Committee, gave a verbal report on the work of the Bills Committee. He explained that the main objectives of the two Bills were to -

- (a) make provisions for on-line applications for company registration and filing of company documents;
- (b) improve the company name approval process;
- (c) facilitate the provision of a one-stop service for company registration and business registration; and
- (d) expand the scope of statutory derivative actions to cover "multiple" derivative actions.

25. Mr Paul CHAN elaborated that the Bills Committee had held eight meetings and had received views from the public (including the relevant trades and professional bodies) on the Bills. The major issues of concern discussed by members included -

- (a) measures to verify the identities of those submitting applications for registration under the proposed regime for company registration;
- (b) whether the proposed amendments were effective in tackling the problem of "shadow companies";
- (c) the mechanism for review of the Registrar of Companies' direction to change the name of companies;

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- (d) whether the proposed scope of "multiple" statutory derivative actions was appropriate ; and
- (e) the provisions governing electronic communications by a company to its members or debenture holders.

26. Mr Paul CHAN further reported that the Bills Committee had completed its scrutiny work. It agreed to the Administration's proposed CSAs and supported the resumption of the Second Reading debates on the two Bills at the Council meeting on 7 July 2010. He added that a written report would be submitted to the House Committee the following week.

27. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Saturday, 26 June 2010.

(c) **Interim report of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions ("the UN Subcommittee")**

28. Dr Margaret NG, Chairman of the UN Subcommittee, reported that since commencement of its work on 1 December 2008, the Subcommittee had held eight meetings and had studied a total of 13 Regulations made under the United Nations Sanctions Ordinance ("UNSO") and gazetted since October 2008. The UN Subcommittee agreed that an interim report on its work should be made to the House Committee before the end of the current legislative session. The written report would be submitted to the House Committee the following week.

29. Dr Margaret NG elaborated that as provided under section 3(5) of UNSO, sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) should not apply to regulations made under UNSO, and such regulations were not subject to amendment by LegCo. Given the important legal and constitutional implications arising from the current mechanism of implementing United Nations sanctions in Hong Kong, the UN Subcommittee considered it necessary to provide a forum for Members to give views on the subject and to elicit the Administration's response. As the existing procedure for holding debates on subsidiary legislation in the Council did not cover regulations made under UNSO, the UN Subcommittee agreed that she, as its Chairman, should move a motion for adjournment under RoP 16(4) at the Council meeting on 7 July 2010, for the purpose of enabling Members to speak on the existing arrangement of implementing in Hong Kong sanctions resolved by the Security Council of the United Nations.

30. Dr Margaret NG further said that the UN Subcommittee sought the House Committee's support for the following -

- (a) the adjournment debate proposed by the UN Subcommittee be held in addition to two other debates on Members' motions with no legislative effect at the Council meeting on 7 July 2010; and

(b) the debate slot would not be counted as her own slot.

31. The Chairman said that as the Panel on Welfare Services also sought the House Committee's agreement to allocate a debate slot to the Chairman of the Subcommittee on Poverty Alleviation formed under the Panel to move a motion to debate on the Report of the Subcommittee at the same Council meeting under agenda item VIII below, she suggested that the two agenda items be discussed jointly. Members agreed.

32. At the invitation of the Chairman, Mr WONG Sing-chi, Chairman of the Panel on Welfare Services, reported that the Subcommittee on Poverty Alleviation had completed its work and had reported to the Panel. In view of wide public concern about the poverty situation in Hong Kong, the Panel agreed to the Subcommittee's proposal that a motion on the Subcommittee's Report should be moved for debate at a Council meeting to provide an opportunity for Members to express their views on the subject and for the Administration to provide its response. The Panel agreed that the approval of the House Committee should be sought for the allocation of a debate slot to the Subcommittee Chairman, Mr Frederick FUNG, under rule 14A(h) of the House Rules ("HR") for moving a motion on the Subcommittee's Report at the Council meeting on 7 July 2010, and the debate slot would not be counted as Mr FUNG's own slot. He appealed to Members to support the Subcommittee's proposal.

33. The Chairman drew to Members' attention that under HR 13(a), the House Committee might recommend that more than two debates initiated by Members be held at a Council meeting under special circumstances. She said that the UN Subcommittee proposed the holding of an adjournment debate and the Subcommittee on Poverty Alleviation a motion debate on the Subcommittee's report, in addition to the two other debates on Members' motions with no legislative effect, at the Council meeting on 7 July 2010. Should the House Committee accede to the two requests, a total of three Members' motions with no legislative effect and an adjournment debate would be held at that Council meeting. She invited Members' views on the two requests.

34. Mr IP Kwok-him said that should the two requests be acceded to, there would be a long Agenda for the Council meeting on 7 July 2010. However, given that the following Council meeting on 14 July 2010 would be the last one for the current session and there would likely be many items of business at that meeting, he expressed support for the requests made by the two Subcommittees.

35. Dr Margaret NG said that the adjournment debate proposed by the UN Subcommittee would probably not be long. She expected that not many Members would speak during the debate and public officers concerned would not give long replies.

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36. In response to Dr Margaret NG, the Chairman clarified that the UN Subcommittee proposed the holding of an adjournment debate under RoP 16(4), while the Subcommittee on Poverty Alleviation a motion debate. According to RoP and HR, the duration of an adjournment debate was kept within one and a half hours. As for the motion debate on the Report of the Subcommittee on Poverty Alleviation, the speaking time limits were 15 minutes for the mover of the motion, 10 minutes for the mover of an amendment to the motion, and seven minutes for other speakers.

37. Dr Margaret NG said that she anticipated that the adjournment debate proposed by the UN Subcommittee would last for about one hour.

38. In response to Ms Cyd HO, the Chairman said that a designated public officer would give a reply at an adjournment debate moved under RoP 16(4).

39. Ms Cyd HO shared Dr Margaret NG's view that one hour would be adequate for the proposed adjournment debate.

40. Mr Frederick FUNG, Chairman of the Subcommittee on Poverty Alleviation, said that the Subcommittee had studied the relevant issues for one-and-a-half years and had made some 20 recommendations in its report. He appealed to Members to support the Subcommittee's request.

41. Members agreed that -

- (a) the request of the UN Subcommittee for Dr Margaret NG to move a motion for adjournment under RoP 16(4) be acceded to;
- (b) the request of the Panel on Welfare Services for Mr Frederick FUNG to move a motion to debate on the Report of the Subcommittee on Poverty Alleviation be acceded to; and
- (c) in addition to the adjournment debate proposed by the UN Subcommittee and the motion debate proposed by the Subcommittee on Poverty Alleviation, two other debates on Members' motions with no legislative effect should also be held at the Council meeting on 7 July 2010.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 1814/09-10)

42. The Chairman said that there were nine Bills Committees, six subcommittees under the House Committee (i.e. two subcommittees on subsidiary legislation, one subcommittee on constitutional reform proposals and three subcommittees on policy issues) and eight subcommittees under Panels in action.

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VIII. Report of the Subcommittee on Poverty Alleviation under Panel on Welfare Services

(LC Paper No. CB(2) 1819/09-10)

43. The item was discussed jointly with item VI (c) above.

IX. The time allocated for raising follow-up questions to oral questions and the limit on the number of written questions

(Letter dated 11 June 2010 from Hon LEE Wing-tat to the Chairman of the House Committee (LC Paper No. CB(2) 1822/09-10(01))

(LC Paper No. CB(3) 798/09-10)

44. At the invitation of the Chairman, Mr LEE Wing-tat said that he noted that over the past six months, many public officers tended to give lengthy replies to oral questions at Council meetings. They often took some 12 to 13 minutes to reply to the main question, and another five minutes to the first supplementary question, leaving little time for Members to ask further supplementary questions. As only about 20 minutes were allotted for each oral question, it was often the case that only the Member who raised the oral question and one or two other Members were able to ask supplementary questions. He suggested specifying in the relevant rules that not less than 10 minutes should be allowed for Members to ask supplementary questions to each oral question. He further said that a Member often had to wait about three to four weeks for the allocation of a slot for a written question. He stressed that Members would only raise questions on important issues. He suggested that consideration should be given to allowing each Member to raise at least one written question at each Council meeting. Mr LEE suggested inviting CRoP to consider his suggestions.

45. Mr TAM Yiu-chung said that as Chairman of CRoP, he agreed to include the matters raised by Mr LEE in the agenda of CRoP meetings for discussion.

46. Members agreed that the matters be referred to CRoP for consideration.

47. There being no other business, the meeting ended at 2:52 pm.