

立法會
Legislative Council

LC Paper No. CB(2) 2010/09-10

Ref : CB2/H/5/09

House Committee of the Legislative Council

**Minutes of the 29th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 2 July 2010**

Members present :

Hon Miriam LAU Kin-yee, 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
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, SBS, 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, GBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon WONG Ting-kwong, BBS, 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 Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP

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-yeet, GBS, JP
Dr Hon PAN Pey-chyou
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Tanya CHAN
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man

Members absent :

Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP

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 KAU Kin-wah	Acting 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
Ms Elyssa WONG	Deputy Head (Research and Library Services)
Mr Kelvin LEE	Assistant Legal Adviser 1

Mr Bonny LOO	Assistant Legal Adviser 3
Mr YICK Wing-kin	Assistant Legal Adviser 8
Ms Clara TAM	Assistant Legal Adviser 9
Mr Anthony CHU	Senior Council Secretary (Administration)2
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 28th meeting held on 25 June 2010
(LC Paper No. CB(2) 1938/09-10)

The minutes were confirmed.

II. Matters arising

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

(Letter dated 28 June 2010 from the Chief Secretary for Administration to the Chairman of the House Committee (LC Paper No. CB(2) 1941/09-10(01))

(Draft verbatim transcript of the relevant proceedings of the special meeting of the Panel on Food Safety and Environmental Hygiene held on 21 June 2010 (LC Paper No. CB(2) 1941/09-10(02))

Letter from CS concerning the meeting of the Panel on Food Safety and Environmental Hygiene ("FSEH Panel") on 21 June 2010

2. The Chairman said that CS had written to her on 28 June 2010 expressing concern about the offensive language used by a Member against a public officer and the non-handling of the latter's request for a ruling by the Panel Chairman at the special meeting of the FSEH Panel on 21 June 2010. She stressed that while the House Committee was not to deal with the specific complaint mentioned in CS's letter, Members had to decide how to handle the issues raised in the letter.

3. Mr Albert CHAN requested to put on record his complaint against the Secretary for Constitutional and Mainland Affairs ("SCMA") for having used the phrase "a clever bird chooses the tree to nest" ("良禽擇木而棲") in respect of Members as it was insulting to liken Members to an animal. He said that the expression "dog official" ("狗官") had been used many times in radio shows and during meetings of LegCo, and had been used for over a thousand years in Chinese history. He did not find the expression offensive. He pointed out that CS had used offensive language about visitors to Hong Kong by describing them as "something dangling in the air" ("吊吊掬"). In his view, Cantonese slangs were innovative and reflected the local culture. He considered it illogical for the Government officials to have felt offended by these slangs.

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4. The Chairman drew to Members' attention the discussion of the House Committee on a similar matter in 2003. She said that the House Committee had considered a Member's complaint about the handling by a Panel Chairman on a point of order raised at a meeting and had then referred the matter to the Committee on Rules of Procedure ("CRoP") for consideration. After CRoP had studied the matter, the LegCo Secretariat had compiled the Handbooks for Committee Chairmen to assist them in presiding at meetings, including providing guidelines in dealing with controversies about Members' speeches or conduct during meetings. She stressed that the House Committee was not to examine the complaint in question or to take on the role of an arbitrator. Given the complaint, Members might consider inviting CRoP to review the relevant rules again in the light of the changing circumstances.

5. Mr Albert CHAN considered that the House Committee should refer a complaint to CRoP only if it was substantiated. The complaint should not be heeded to if it was found to be groundless or frivolous. He reiterated his request to put on record his complaints against CS and SCMA. He strongly objected to referring CS's complaint to CRoP.

6. The Chairman said that she was only proposing an option for Members' consideration in the light of the experience in 2003. The House Committee would decide on the handling of the issues raised in CS's letter after Members had expressed their views. She drew to Members' attention the draft verbatim transcript of the relevant proceedings of the FSEH Panel meeting.

7. Mr LEUNG Kwok-hung opined that Government officials were accountable to LegCo and should not leave a committee meeting on account of Members' use of certain language about them. He did not see any problem in the use of the expression "dog official" about a Government official. He pointed out that such an expression had been used by the general public since feudal China to condemn officials who did not have public interests in mind. In his view, should Members decide to follow up the complaint, views of linguists should be sought on the meaning of the expression. He considered it not acceptable for Government officials to refuse to discharge their duties on the mere ground that they had been scolded by Members.

8. Mr LAU Kong-wah said that it was a matter of principle that Members should not use insulting and offensive language about other Members or Government officials. He said that the complaint involved two issues. The first was a Member's use of offensive language about a Government official at the meeting. In his view, the use of the expression "dog official" was offensive and unacceptable. He stressed that Members could criticize a certain policy but under no circumstances should they use such an expression about a Government official. The other issue involved the handling of the incident by the Chairman of the FSEH Panel. He pointed out that there were many instances where committee chairmen had to deal with the use of offensive and insulting languages about members or Government officials at

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committee meetings. Committee chairmen would normally take certain actions to deal with such controversies, such as requesting the member concerned to withdraw the expression. It was his understanding that the Chairman of the FSEH Panel had not handled the Government official's request for a ruling. He agreed to the proposal of referring the issues to CRoP for review of the relevant rules to ensure the orderly conduct of committee meetings.

9. Dr Margaret NG said that CS had not pointed out in his letter any deficiency in the Rules of Procedure ("RoP"), and his concern was that the Panel Chairman concerned had not adhered to the relevant guidelines. She stressed that Panel Chairmen had the authority to make a ruling and decide whether to follow the relevant guidelines. She could not ascertain from CS's letter the course of action which he would like the House Committee to take. She opined that if a Government official decided to leave a meeting after a Panel chairman had not handled his request for a ruling, she could not see what LegCo could do about it.

10. The Chairman stressed that the House Committee did not seek to adjudicate on the incident mentioned in CS's letter. She drew to Members' attention the limited powers of Panel Chairmen in dealing with controversies at meetings under the existing rules. She pointed out that as stated in the Handbook for Chairmen of Panels, in dealing with controversies concerning Members' conduct or points of order at meetings, a Panel Chairman might adopt the following approaches -

- (a) remind the Member that his/her conduct was inappropriate;
- (b) persuade the Member not to continue to behave in a manner which was the subject of the controversy;
- (c) suspend the meeting to let the controversy die down, if necessary; and/or
- (d) seek the view of the Panel on how the controversy should be dealt with.

The Chairman further said that as the relevant guidelines were last reviewed a few years ago, Members could consider inviting CRoP to study whether the existing powers given to Panel Chairmen were adequate for them to deal with controversies at meetings. She stressed that should CRoP consider it necessary to propose any changes, Members belonging to different political parties and groupings would be consulted. She reiterated that the House Committee should not arbitrate in the incident.

11. The Deputy Chairman, who was the Chairman of the FSEH Panel, said that the Panel meeting on 21 June 2010 was chaired by him and he should bear some responsibility in the matter. He explained that when the incident occurred, the Administration was responding to a question raised by Mr KAM

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Nai-wai. When Mr WONG Yuk-man entered the meeting venue, he interrupted the Administration's response and used the expression "dog official" against the Government official. The official concerned then requested for a ruling. At that point, he had checked with the Panel Clerk as to whether he had the power under RoP to order a Member to withdraw from a meeting if the Member concerned refused to withdraw an insulting expression. The Panel Clerk informed him that he did not have such power. As shown in the draft verbatim transcript of the relevant proceedings of the meeting, Mr WONG Yuk-man had indicated then that he would withdraw the expression after he had finished scolding. Under the circumstances, he decided not to take any action to avoid exacerbating the controversy. He hoped that Members could give views on whether CRoP should be invited to study the powers of Panel Chairmen in dealing with controversies at meetings.

12. The Chairman stressed that Members should focus their discussion on whether CRoP should be invited to review the relevant rules and the relevant guidelines in the Handbooks for committee chairmen. The discussion of the House Committee was not to lay criticism on any party in the complaint.

13. Ms Cyd HO said that in dealing with controversies at meetings, Panel Chairmen could suspend the meeting to let the controversy die down. She stressed that the Executive Authority was accountable to the Legislature and should not shirk its constitutional responsibility merely because Government officials felt offended by the language used by individual Members.

14. Mr Ronny TONG said that in view of the complaint and given that the House Committee was not the appropriate forum for resolving the relevant issues, he supported referring the issues to CRoP for reconsideration.

15. Mr CHAN Kam-lam and Mr IP Kwok-him also agreed to refer the issues to CRoP. Mr IP said that different Members might have different views on what constituted insulting and offensive language.

16. Dr Margaret NG pointed out that issues of a similar nature had been considered by CRoP. CRoP had discussed the powers of committee chairmen and the reasons as to why their powers should be different from those of the President. In her view, should Members decide to refer the issues under discussion to CRoP again, they should henceforth adhere to the same principle of referring any members' complaint about the handling of points of order by committee chairmen to CRoP.

17. Mr Tommy CHEUNG supported the proposal of referring the issues to CRoP for reconsideration. He said that CRoP could consider the need to expand the powers of Panel Chairmen in presiding at meetings.

18. Mr Albert CHAN reiterated his strong objection to referring the issues to CRoP. He said that Members should not refer the issues to CRoP again at one complaint of CS without ascertaining the substance of the complaint. In

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his view, such doing was tantamount to suppressing the speech of Members at committee meetings and forsaking the dignity of LegCo. He deplored the taking of such a course of action in handling CS's letter.

19. Mr TAM Yiu-chung said that as Chairman of CRoP, he was prepared to include the matter in the list of items for discussion and CRoP would consider whether further measures could be taken to complement RoP and the various Handbooks for committee chairmen. He stressed that CRoP would not investigate the complaint.

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)**

(i) **Legal Practitioners (Amendment) Bill 2010**
(*LC Paper No. LS 79/09-10*)

20. The Chairman said that the Bill sought to amend the Legal Practitioners Ordinance to introduce limited liability partnerships for law firms in Hong Kong. The Panel on Administration of Justice and Legal Services ("AJLS Panel") had been briefed on the legislative proposals at a number of meetings in 2008 and 2009. Panel members in general were of the view that limited liability partnerships should be introduced as soon as possible, but adequate measures of consumer protection should be put in place.

21. Dr Margaret NG considered it necessary to form a Bills Committee to study the Bill.

22. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Dr Margaret NG, Ms Miriam LAU, Mr Ronny TONG and Ms Starry LEE.

23. The Chairman said that as there were vacant slots, the Bills Committee could commence work immediately.

(ii) **Matrimonial Proceedings and Property (Amendment) Bill 2010**
(*LC Paper No. LS 82/09-10*)

24. The Chairman said that the Bill sought to empower the Hong Kong courts to order financial relief for former spouse whose marriage had been dissolved or annulled, or who had been legally separated, by means of judicial or other proceedings in a place outside Hong Kong. The AJLS Panel had been briefed on the draft Bill and members had expressed support for the amendment proposals in principle.

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25. Dr Margaret NG considered it necessary to form a Bills Committee to study the Bill.

26. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Dr Margaret NG, Ms Miriam LAU, Ms Audrey EU and Mr Ronny TONG.

27. The Chairman said that as there were vacant slots, the Bills Committee could commence work immediately.

(iii) Residential Care Homes (Persons with Disabilities) Bill
(LC Paper No. LS 81/09-10)

28. The Chairman said that the Bill sought to regulate residential care homes for persons with disabilities by a statutory licensing system. The Panel on Welfare Services had been consulted on the proposed licensing scheme at a number of meetings in 2007, 2008, 2009 and 2010. While the Panel was generally supportive of the Bill, some members had raised concern on various matters.

29. Mr WONG Sing-chi considered it necessary to form a Bills Committee to study the Bill.

30. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr LEE Cheuk-yan, Mr TAM Yiu-chung, Mr Ronny TONG, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr IP Wai-ming and Dr PAN Pey-chyou.

31. The Chairman said that as there were vacant slots, the Bills Committee could commence work immediately.

(iv) Communications Authority Bill
(LC Paper No. LS 80/09-10)

32. The Chairman said that the Bill sought to establish the Communications Authority ("CA"), transfer the functions of the Broadcasting Authority ("BA") and the Telecommunications Authority to CA, dissolve BA and provide for incidental and connected matters. The legislative proposals had been discussed by the Panel on Information Technology and Broadcasting at its meetings and members had raised various concerns. The Chairman added that the Legal Service Division was scrutinizing the Bill.

33. Mr Ronny TONG considered it necessary to form a Bills Committee to study the Bill.

34. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Dr Margaret NG, Mr LEE Wing-tat (as advised by Mr Fred LI), Mr Ronny TONG and Mrs Regina IP.

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35. The Chairman said that as there were vacant slots, the Bills Committee could commence work immediately.

36. In response to Mr Ronny TONG on whether the Bills Committees just formed would convene meetings during the summer recess, the Chairman said that it was up to the Chairmen of the relevant Bills Committees to decide.

(b) **Legal Service Division report on subsidiary legislation gazetted on 25 June 2010 and tabled in Council on 30 June 2010**
(*LC Paper No. LS 83/09-10*)

37. The Chairman said that only one item of subsidiary legislation, i.e. the Hawker (Permitted Places) Declaration 2010, was gazetted on 25 June 2010 and tabled in the Council on 30 June 2010.

38. Members did not raise any queries on the Declaration.

39. The Chairman reminded Members that the deadline for amending the Declaration was 20 October 2010.

IV. Further business for the Council meeting on 7 July 2010

40. The Chairman said that there would be many items of business at the Council meeting on 7 July 2010. If the business on the Agenda of the Council meeting could not be finished on that day, the Council would resume the following day at 2:30 pm for continuation of the unfinished business.

(a) **Tabling of papers**

**Report No. 16/09-10 of the House Committee on Consideration of
Subsidiary Legislation and Other Instruments**
(*LC Paper No. CB(2) 1940/09-10 issued vide LC Paper No. CB(3)
866/09-10 dated 30 June 2010*)

41. The Chairman said that the report covered three items of subsidiary legislation the period for amendment of which would expire on 7 July 2010. No Members had requested to speak on the subsidiary legislation.

42. Members noted the report.

(b) **Members' motions**

**Motion for adjournment of the Council to be moved by Dr Hon
Margaret NG for the purpose of debating the following issue: The
current arrangement of implementing in Hong Kong sanctions
resolved by the Security Council of the United Nations**
(*Wording of the motion issued vide LC Paper No. CB(3) 845/09-10
dated 25 June 2010.*)

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43. The Chairman said that at the House Committee meeting on 18 June 2010, Members agreed to the proposal for Dr Margaret NG, Chairman of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions, for moving the above motion for adjournment of the Council.

V. Business for the Council meeting on 14 July 2010

(a) Questions

(LC Paper No. CB(3) 856/09-10)

44. 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) Securities and Futures and Companies Legislation (Structured Products Amendment) Bill 2010

(ii) Competition Bill

45. The Chairman said that the Administration had given notice to present the above two Bills to the Council on 14 July 2010. As the House Committee would only consider these Bills at the meeting after the summer recess in October, and as it might be desirable to commence scrutiny of the Bills as soon as possible in particular the Competition Bill, she proposed an additional House Committee meeting on 16 July 2010 at 2:30 pm to consider the Bills. Should Members consider it necessary to form Bills Committees to study the Bills, the Bills Committees could commence work immediately. She further said that in the event that the Council meeting of 14 July was still in progress at 2:30 pm on 16 July, the House Committee meeting could be held immediately after the Council meeting.

46. In response to Mr Ronny TONG, the Chairman said that the House Committee could consider the Bills only after their First Reading at the Council meeting on 14 July, hence her proposal for an additional House Committee meeting on 16 July.

47. Responding to Dr Margaret NG, the Chairman said that should an additional House Committee meeting not be convened on 16 July, the House Committee would consider the two Bills at its meeting on 8 October.

48. Dr Margaret NG said that even if an additional House Committee meeting was held on 16 July to consider the Bills, the relevant Bills Committees would probably convene their first meetings in the last week of July at the earliest. Unless the Bills Committees would hold meetings in August, the difference between consideration of the Bills on 16 July or 8 October was only a matter of about one month (i.e. September).

49. The Chairman said that she was only proposing an option for Members' consideration and Members could express their views on her proposal.

50. Mr IP Kwok-him said that should an additional House Committee meeting be held on 16 July to consider the Competition Bill, the Bills Committee formed would have to convene meetings in August and September to study the Bill. As many Members were concerned about the Bill, he did not consider it desirable for the Bills Committee to hold meetings at a time when many Members were out of town and were unable to attend its meetings. In his view, it was more appropriate for the House Committee to consider the Bill in October.

51. Mr Ronny TONG believed that many Members would be interested in joining the Bills Committee on the Competition Bill. As many Members had made plans for taking leave in July and August, he questioned whether it was appropriate to schedule the first few meetings of the Bills Committee in the summer months when many Members would not be able to attend. He shared Mr IP Kwok-him's views and considered that an additional House Committee meeting on 16 July might not be needed.

52. Mr Andrew LEUNG shared the views of Mr IP Kwok-him and Mr Ronny TONG. He said that given the importance of the Competition Bill, he had to consult small and medium enterprises on the Bill. As the Bill had just been gazetted on the day of the House Committee meeting, Members had not had the opportunity to study it. He did not consider it a desirable arrangement for the scrutiny work to be started off at the end of the current session, suspended during the summer recess and then resumed in October. He considered it more appropriate to commence the scrutiny work in October. He stressed that in view of the complexity of the Bill, it was important to allow sufficient time for Members to scrutinize and conduct thorough consultation on it.

53. While agreeing with the importance of the Competition Bill, Mr Tommy CHEUNG did not see any urgency in starting its scrutiny immediately. As it was a new piece of legislation and given its controversial nature, he considered it important not to rush through its scrutiny. He stressed that he had no intention of delaying the legislative process of the Bill. Indeed, it was his understanding that many trades welcomed the introduction of the new legislation. He said that should the Administration consider there to be urgency in passage of the Bill, it should have introduced the Bill to the Council earlier. He expressed dissatisfaction with the Administration's long-standing practice of introducing bills towards the end of a session, and Members having been forced to rush through their scrutiny and having to bear the blame should anything go wrong. He shared the view that the scrutiny work of the Competition Bill could commence in October.

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54. Dr Margaret NG considered that the Chairman should convey Members' dissatisfaction to the Administration. She pointed out that the Legal Practitioners (Amendment) Bill 2010 involved simple amendments which had been discussed for a long time and the Administration should have introduced it much earlier. Likewise, the legislative proposals in the Matrimonial Proceedings and Property (Amendment) Bill 2010 had been discussed for a year, and the Bill was introduced only in end of June. The Competition Bill had also been discussed for years but the Administration would only introduce it at the last Council meeting of the session in order to put on the record that it had been introduced as scheduled. There were many such instances in the past, and the Interception of Communications and Surveillance Bill was a case in point. Owing to the need to complete the scrutiny of that Bill before the deadline as specified in a court order, Members had no choice then but to convene meetings in August. She considered that the Administration should review its timetable for introduction of bills into the Council.

55. The Chairman said that she had proposed to convene an additional House Committee meeting on 16 July in order to commence the scrutiny of the Competition Bill as early as possible. In the light of Members' views, the normal arrangement would be followed and the House Committee would consider the two Bills to be introduced at the Council meeting of 14 July at its meeting on 8 October.

(c) **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. 3) Regulation 2010; and**
- (ii) **the Poisons List (Amendment) (No. 3) Regulation 2010**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 838/09-10 dated 25 June 2010.)

(LC Paper No. LS 84/09-10)

56. The Chairman said that the proposed resolution was for seeking the Council's approval of the Pharmacy and Poisons (Amendment) (No. 3) Regulation 2010 and the Poisons List (Amendment) (No. 3) Regulation 2010 to add six substances to Division A in both the First and Third Schedules to the Pharmacy and Poisons Regulations and to Division A in Part I of the Schedule to the Poisons List Regulations respectively, so that poisons containing the substances could only be sold on registered premises of an authorized seller by a registered pharmacist or in the pharmacist's presence and under the pharmacist's supervision.

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

(d) **Members' motions**

(i) **Proposed resolution to be moved by Hon LEE Wing-tat under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382)**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 859/09-10 dated 30 June 2010.)

58. The Chairman said that at the last House Committee meeting, Members noted that Mr LEE Wing-tat would give notice to move the above motion to seek the Council's authorization to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance to order the Administration to produce all the correspondence between the Lands Department and the developer of 39 Conduit Road relating to the Lands Department's enquiry into the property transactions of the development.

59. The Chairman reminded Members that the speaking time limit for each Member was 15 minutes.

(ii) **Motion on "Proactively developing social enterprises"**

(Wording of the motion issued vide LC Paper No. CB(3) 860/09-10 dated 30 June 2010.)

(iii) **Motion on "Comprehensively upgrading the quality of talents in Hong Kong to complement the upgrading and transformation of small and medium enterprises"**

(Wording of the motion issued vide LC Paper No. CB(3) 861/09-10 dated 2 July 2010.)

60. The Chairman said that the above motions would be moved by Mr Frederick FUNG and her respectively and the wording of the motions had been issued to Members.

61. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 7 July 2010.

Report on the study of subsidiary legislation

62. The Chairman said that the list of subsidiary legislation the period for amendment of which would expire on 14 July 2010 had been tabled at the meeting. The list contained only one item of subsidiary legislation, i.e. the Tate's Cairn Tunnel Ordinance (Amendment of Schedule) Notice 2010. Members who wished to speak on the subsidiary legislation should notify the Clerk by 5:00 pm on Tuesday, 6 July 2010.

VI. Report of Bills Committees and subcommittees

(a) Report of the Bills Committee on Minimum Wage Bill *(LC Paper No. CB(2)1966/09-10)*

63. Mr TAM Yiu-chung, Chairman of the Bills Committee, reported that the Bill sought to provide for a statutory minimum wage at an hourly rate for certain employees and to establish a Minimum Wage Commission. Since commencement of its work on 16 July 2009, the Bills Committee had held 30 meetings and had received oral views from 72 organizations/individuals. In addition, it had also received written submissions from 61 organizations/individuals. He referred Members to the Bills Committee's report for details of its deliberations.

64. Mr TAM Yiu-chung then highlighted the major issues discussed by the Bills Committee. These included the policy objectives of the Bill; whether the Bill was consistent with the Basic Law and the International Covenant on Economic, Social and Cultural Rights; whether the statutory minimum wage should be expressed on an hourly basis; persons exempted from the statutory minimum wage regime; hours worked; counting of commission, tips and service charges; composition, functions and transparency of the Minimum Wage Commission; criteria and legislative procedure for setting the statutory minimum wage rate; review cycles of the statutory minimum wage rate and whether the Bill should apply to the Government.

65. Mr TAM Yiu-chung further reported that in response to members' concerns, the Administration would move Committee Stage amendments ("CSAs") to the Bill. Eight members had indicated that they would move CSAs, and their proposed amendments had been considered by the Bills Committee. He added that the deadline for giving notice of CSAs was 5 July 2010. The Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting on 14 July 2010.

66. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 5 July 2010.

(b) Report of the Subcommittee on Tate's Cairn Tunnel Ordinance (Amendment of Schedule) Notice 2010 *(LC Paper No. CB(1) 2361/09-10)*

67. The Chairman, in her capacity as Chairman of the Subcommittee, reported on its deliberations as detailed in its report. She said that the Subcommittee had held two meetings to discuss the toll increases for the Tate's Cairn Tunnel and had completed its work.

68. The Chairman elaborated that members of the Subcommittee were mainly concerned about the impact of the proposed toll increases on bus fare. Members had requested the Tate's Cairn Tunnel Company Limited ("TCTC")

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not to increase tolls for public buses lest the toll increase might add to the pressure for bus fare increases. However, TCTC had advised that, after consideration of its financial position, it would not be able to exempt public buses from the proposed toll increases. Noting that LegCo could only make minor technical amendments to the Notice and could not repeal it, the Subcommittee had urged the Administration to discuss actively with TCTC on such measures as extending TCTC's franchise or buying back the Tunnel, with a view to resolving the problem of toll increases on a long-term basis. She added that the Administration and the Subcommittee would not move any amendments to the Notice.

69. The Chairman reminded Members that as the deadline for amending the Notice was 14 July 2010, the deadline for giving notice of amendments, if any, was Wednesday, 7 July 2010.

VIII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 1939/09-10)

70. The Chairman said that there were 10 Bills Committees, four subcommittees under the House Committee (i.e. one subcommittee on subsidiary legislation and three subcommittees on policy issues) and eight subcommittees under Panels in action.

VIII. Report on the duty visit of the Legislative Council delegation to the Shanghai World Expo

(LC Paper No. CB(1) 2308/09-10)

71. The Chairman, in her capacity as the deputy leader of the delegation, reported that the LegCo delegation had conducted a duty visit to the Shanghai World Expo during 8 to 10 May 2010. The delegation had a fruitful itinerary. During the three-day visit, the delegation had taken the Express Rail Link, received a briefing from the relevant Mainland experts on the operation of the Express Rail Link and visited 15 Pavilions at the Shanghai World Expo. She referred Members to the report of the delegation for details of the duty visit.

72. Members noted the report.

IX. Proposed amendments to the House Rules concerning visits outside Hong Kong in response to invitations

(LC Paper No. PT 19/09-10)

73. At the invitation of the Chairman, Secretary General ("SG") said that the paper sought Members' views on the proposed amendments to the House Rules ("HR") as set out in Annex II. It was proposed that a new rule 29A be added to HR to incorporate duty visits undertaken by Panels under the current rule 22(v), and to cover duty visits conducted by other committees and the new

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mechanism for handling visits outside Hong Kong conducted by Members in response to invitations. SG added that the new mechanism was agreed by the House Committee at its meeting on 11 December 2009, and the views expressed by Members at that meeting had been incorporated into the proposed amendments to HR.

74. Members endorsed the proposed amendments to HR.

X. Security at the Legislative Council Building

*(Letter dated 25 June 2010 from Dr Hon PAN Pey-chyou to the Chairman of the House Committee (LC Paper No. CB(2) 1941/09-10(03))
(LC Paper No. AS 279/09-10)*

75. At the invitation of the Chairman, Dr PAN Pey-chyou said that as one of the Members representing the labour sector, he was gravely concerned about the injury sustained by the security staff in the several incidents of physical violence within the premises of the LegCo Building in the past two years. He pointed out that both Members and members of the public had proper channels to express their views; the former could speak in the Council and the latter could protest in the designated area in the LegCo Carpark. He condemned those persons who had resorted to physical force in the expression of views causing injury to the security staff. Dr PAN further said that as the situation had been getting serious with six security staff sustaining injury in the past 13 months, Members should consider ways to minimize the recurrence of similar incidents.

76. Mr Ronny TONG said that while certain conduct relating to the expression of views could not be prevented, it was necessary to consider how such conduct could be balanced effectively. In his view, the case in point was not about resources but rather the need for LegCo to find ways for imposing punitive actions and for having the right of recourse so that the persons concerned had to consider the consequences of their actions.

77. The Chairman said that Dr PAN Pey-chyou had made two specific requests, namely the making of improvement measures in connection with the injury to the security staff, and the conveyance of condolences to the staff concerned. The Chairman added that Members might consider referring the former matter to The LegCo Commission ("LCC") for study.

78. Mr IP Wai-ming considered that the matter under discussion was very important as it involved the occupational safety of the staff of the LegCo Secretariat. In his view, the LCC should consider the issuance of guidelines to the security staff on ways to prevent injury in the discharge of duty. He shared Mr Ronny TONG's view on the need for the LCC to explore how LegCo could impose punitive actions and have the right of recourse.

79. Ms LI Fung-ying said that the matter warranted Members' concern. She noted that six security staff had been injured while on duty in the past 13 months, and four of them were still receiving treatment. While agreeing that

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members of the public could express views, she considered it unacceptable for actions relating to such expression to have caused injury to the security staff of LegCo. She stressed that some injuries had permanent effect even after recovery. She requested SG to consider ways to prevent staff from sustaining injury while on duty. She also considered it necessary to review the medical expenses of \$200 for each day on which an employee was given treatment other than as an in-patient in a hospital. She pointed out that the cost incurred for each physiotherapy treatment including the travelling expenses well exceeded \$200.

80. Dr Margaret NG also expressed grave concern about the matter. She said that she had raised the matter at the LCC meetings on many occasions. The matter involved many issues, including the need for the expression of views by Members and members of the public, the proper arrangements for the security staff to carry out their duties, the issuance of guidelines to the security staff, the physical setting of the Chamber and the public gallery, etc. Quoting her experience in attending a conference in the United Kingdom ("UK") recently, she pointed out that a lot of discussions on security arrangements at parliaments had been held. She stressed that such arrangements should be handled in a professional manner. She considered it necessary to maintain the order in the Council and committees on the one hand, and to ensure that the security staff would discharge their duties in a safe manner on the other. She was concerned that notwithstanding her request for addressing the matter for a long time, it had remained unresolved.

81. Mr WONG Sing-chi said that Members belonging to the Democratic Party were also concerned about the matter. In their view, it was necessary to balance the need for the public to express views and for the security staff to carry out duties in a safe manner. He requested that more information on the various incidents on which the security staff had been injured be provided to Members to facilitate their consideration of the matter.

82. Mr WONG Kwok-hing said that the LCC should consider improving the physical setting of the Chamber such as installing hardware to prevent sudden crossing of the floor by Members/persons and reducing the potential danger caused by the sharp edges of Members' benches. He considered that to prevent recurrence of further injuries to the security staff, the LCC should make use of the summer recess to carry out such improvement works, notwithstanding the planned removal of LegCo to the new LegCo Complex.

83. Mr LEE Cheuk-yan considered it necessary to examine each past incident in-depth in order to draw up the relevant guidelines to minimize injury to staff in the discharge of duties. He pointed out that duties of the security staff of the Secretariat should not include physical contact with Members or other persons, and it would be unfair to require them to carry out such duties. In his view, it might be necessary to recruit staff specifically trained for such purpose.

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84. SG thanked Members for their concern about the personal safety of the security staff in their discharge of duties. She explained that the Secretariat had kept under constant review the staffing complement of the security service. A proposal on the staffing requirement of the Security Office and the training need of the security staff would be submitted to the LCC for consideration at its meeting in July 2010. With the assistance of a professional security consultant in the Security Bureau, the Secretariat was carrying out a review which covered not only the security arrangements at the existing LegCo Building but also in the new LegCo Complex. The consultant had just submitted a report on the subject. SG added that a report on the various incidents on which the security staff had been injured on duty would be provided to Members for reference.

85. Mr CHAN Kam-lam said that the President should be requested to strictly enforce the provisions of RoP concerning disorderly conduct of Members.

86. Concluding the discussions, the Chairman said that the matters including the staffing complement and training needs of the security staff would be referred to the LCC for consideration, and a letter of condolence would be issued by the House Committee to the relevant security staff. Members agreed.

XI. Proposal from Hon Mrs Regina IP LAU Suk-ye for moving a motion for adjournment under Rule 16(4) at the Council meeting on 14 July 2010 for debate on issues relating to the incidents of collapse of trees

(Letters dated 30 June 2010 from Hon Mrs Regina IP LAU Suk-ye to the Chairman of the House Committee (LC Paper Nos. CB(2)1941/09-10(04) and CB(2) 1971/09-10(01))

87. At the invitation of the Chairman, Mrs Regina IP said that the recent occurrence of several incidents of collapse of trees was an issue of urgent public importance. Notwithstanding the allocation of \$16 million for the setting up of the Tree Management Office, no department had admitted responsibility for the incidents, and collapse of trees continued to occur. This pointed to the operational problems of the Tree Management Office. Mrs IP stressed that with the imminent approach of the rainy season, the issue called for immediate attention. She therefore proposed to move a motion for adjournment under Rule 16(4) of RoP at the Council meeting on 14 July 2010, for the purpose of enabling Members to speak on the issue. She further said that as the Task Force on Tree Management was headed by CS, he should be requested to attend the adjournment debate.

88. The Chairman said that under rule 13(a) of HR, the House Committee might recommend the holding of more than two debates initiated by Members at a Council meeting under special circumstances. According to Rule 16(6) and (7) of RoP and rule 18(b) of HR, the duration of an adjournment debate

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moved under Rule 16(4) was kept within one and a half hours unless extended by the President. Each Member, including the proposer, might speak for up to five minutes in the debate. The Chairman added that Mrs IP also proposed that the President be requested to consider exercising his discretion to extend the duration of the adjournment debate beyond one and a half hours, in order to enable all Members wishing to speak at the adjournment debate to do so. She invited Members' view on Mrs Regina IP's proposals.

89. Mr LEUNG Kwok-hung enquired whether public officers were required to attend adjournment debates and respond. He said that should the answer be in the affirmative, CS should be requested to attend the proposed adjournment debate as he should be held accountable.

90. The Chairman said that public officers had 15 minutes to reply in an adjournment debate. While Members could request a specific public officer to attend an adjournment debate, it was up to the Administration to designate the public officers to reply.

91. Ms Emily LAU enquired about the possible duration of the Council meeting of 14 July. She said that should an adjournment debate be held in addition to two other debates on Members' motions with no legislative effect, the duration of the meeting would be even longer.

92. The Chairman said that it was anticipated that the Council meeting of 14 July might last for three days or even longer.

93. Mr LEE Cheuk-yan said that while he agreed with the importance of the issue, he considered that it would be a better option to hold a special meeting of the relevant Panel to discuss the issue in-depth. He enquired whether there was such an option.

94. The Chairman said that the proposal for Members' consideration was the holding of an adjournment debate on the issue.

95. Mr James TO shared Mr LEE Cheuk-yan's view. He said that the availability of the option of holding a special Panel meeting would have bearing on Members' consideration of the proposal. In his view, the discussion on the issue would be more thorough at a Panel meeting than an adjournment debate.

96. The Chairman put to vote the proposal of holding an adjournment debate on issues relating to the incidents of collapse of trees in addition to two other debates on Members' motions with no legislative effect at the Council meeting of 14 July 2010. As the majority of Members present voted for the proposal, the Chairman declared that the proposal had the House Committee's support. Members also supported the request for the President to consider exercising his discretion to extend the duration of the adjournment debate beyond one and a half hours, in order to enable all Members wishing to speak at the adjournment debate to do so.

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97. Concluding the discussions, the Chairman said that the holding of an adjournment debate on the issue did not rule out other follow-up options.

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98. There being no other business, the meeting ended at 3:32 pm.

Council Business Division 2
Legislative Council Secretariat
8 July 2010