

# LEGISLATIVE COUNCIL

## MINUTES

### No. 3

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**Minutes of the meeting held on Wednesday 20 October 2010 at 11:00 am**

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#### **Members present:**

President

The Hon Jasper TSANG Yok-sing, GBS, JP

The Hon Albert HO Chun-yan

Ir Dr the Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP

The Hon LEE Cheuk-yan

Dr the Hon David LI Kwok-po, GBM, GBS, JP

The Hon Fred LI Wah-ming, SBS, JP

Dr the Hon Margaret NG

The Hon James TO Kun-sun

The Hon CHEUNG Man-kwong

The Hon CHAN Kam-lam, SBS, JP

The Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP

The Hon LEUNG Yiu-chung

Dr the Hon Philip WONG Yu-hong, GBS

The Hon WONG Yung-kan, SBS, JP

The Hon LAU Kong-wah, JP

The Hon LAU Wong-fat, GBM, GBS, JP

The Hon Miriam LAU Kin-yee, GBS, JP

The Hon Emily LAU Wai-hing, JP

The Hon Andrew CHENG Kar-foo

The Hon Abraham SHEK Lai-him, SBS, JP

The Hon LI Fung-ying, SBS, JP

The Hon Frederick FUNG Kin-kee, SBS, JP

The Hon Audrey EU Yuet-mee, SC, JP

The Hon Vincent FANG Kang, SBS, JP

The Hon WONG Kwok-hing, MH

The Hon LEE Wing-tat

The Hon Jeffrey LAM Kin-fung, SBS, JP

The Hon Andrew LEUNG Kwan-yuen, GBS, JP

The Hon CHEUNG Hok-ming, GBS, JP

The Hon WONG Ting-kwong, BBS, JP

The Hon Ronny TONG Ka-wah, SC

The Hon CHIM Pui-chung

Prof the Hon Patrick LAU Sau-shing, SBS, JP

The Hon KAM Nai-wai, MH

The Hon Cyd HO Sau-lan

The Hon Starry LEE Wai-king, JP

Dr the Hon LAM Tai-fai, BBS, JP

The Hon CHAN Hak-kan

The Hon Paul CHAN Mo-po, MH, JP

The Hon CHAN Kin-por, JP

Dr the Hon Priscilla LEUNG Mei-fun

Dr the Hon LEUNG Ka-lau

The Hon CHEUNG Kwok-che

The Hon WONG Sing-chi

The Hon WONG Kwok-kin, BBS

The Hon IP Wai-ming, MH

The Hon IP Kwok-him, GBS, JP

The Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Dr the Hon PAN Pey-chyou

The Hon Paul TSE Wai-chun

Dr the Hon Samson TAM Wai-ho, JP

The Hon Alan LEONG Kah-kit, SC

The Hon LEUNG Kwok-hung

The Hon Tanya CHAN

The Hon Albert CHAN Wai-yip

The Hon WONG Yuk-man

**Members absent:**

The Hon Timothy FOK Tsun-ting, GBS, JP

The Hon TAM Yiu-chung, GBS, JP

The Hon Tommy CHEUNG Yu-yan, SBS, JP

Dr the Hon Joseph LEE Kok-long, SBS, JP

**Public officers attending:**

The Hon Henry TANG Ying-yen, GBM, GBS, JP  
The Chief Secretary for Administration

The Hon WONG Yan-lung, SC, JP  
The Secretary for Justice

The Hon Stephen LAM Sui-lung, GBS, JP  
Secretary for Constitutional and Mainland Affairs

Mr LAI Tung-kwok, SBS, IDSM, JP  
Secretary for Security

Dr the Hon York CHOW Yat-ngok, GBS, JP  
Secretary for Food and Health

Prof Gabriel Matthew LEUNG, JP (first motion under agenda item V)  
Secretary for Food and Health

The Hon Matthew CHEUNG Kin-chung, GBS, JP  
Secretary for Labour and Welfare

Prof the Hon K C CHAN, SBS, JP  
Secretary for Financial Services and the Treasury

The Hon Mrs Carrie LAM CHENG Yuet-ngor, GBS, JP  
Secretary for Development

The Hon Edward YAU Tang-wah, JP  
Secretary for the Environment

The Hon Eva CHENG, JP  
Secretary for Transport and Housing

The Hon Mrs Rita LAU NG Wai-lan, JP  
Secretary for Commerce and Economic Development

Mr Gregory SO Kam-leung, JP  
Under Secretary for Commerce and Economic Development

Ms Julia LEUNG Fung-yee, JP  
Under Secretary for Financial Services and the Treasury

Mr YAU Shing-mu, JP  
Under Secretary for Transport and Housing

Miss Adeline WONG Ching-man, JP  
Under Secretary for Constitutional and Mainland Affairs

**Clerks in attendance:**

Ms Pauline NG Man-wah, Secretary General

Mrs Vivian KAM NG Lai-man, Assistant Secretary General (2)

Mrs Justina LAM CHENG Bo-ling, Assistant Secretary General (3)

Mrs Percy MA, Assistant Secretary General (Special Duties)

## **Tabling of Papers**

The following papers were laid on the table under Rule 21(2) of the Rules of Procedure:

<u>Subsidiary Legislation / Instruments</u>	<u>No.</u>
1. Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Republic of Hungary) Order (gazetted on 15.10.2010)	L.N. 124/2010
2. Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital) (Republic of Austria) Order (gazetted on 15.10.2010)	L.N. 125/2010
3. Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains) (United Kingdom of Great Britain and Northern Ireland) Order (gazetted on 15.10.2010)	L.N. 126/2010
4. Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Ireland) Order (gazetted on 15.10.2010)	L.N. 127/2010
5. Specification of Arrangements (The Mainland of China) (Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income) (Third Protocol) Order (gazetted on 15.10.2010)	L.N. 128/2010
6. Waterworks (Amendment) Regulation 2010 (gazetted on 15.10.2010)	L.N. 129/2010
7. Clubs (Safety of Premises) (Exclusion) (Amendment) Order 2010 (gazetted on 15.10.2010)	L.N. 130/2010
8. Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) (Amendment) Rules 2010 (gazetted on 15.10.2010)	L.N. 131/2010
9. Companies (Amendment) Ordinance 2010 (Commencement) Notice 2010 (gazetted on 15.10.2010)	L.N. 132/2010

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|-----|---|-----------------------------------|
| 10. | United Nations (Anti-Terrorism Measures) Ordinance (Commencement) Notice 2010 (gazetted on 15.10.2010)                      | L.N. 133/2010                     |
| 11. | United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2004 (Commencement) Notice 2010 (gazetted on 15.10.2010)     | L.N. 134/2010                     |
| 12. | Second Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences (gazetted on 15.10.2010) | S.S. No. 5 to Gazette No. 41/2010 |

Other Papers

- |        |   |   |                                     |
|--------|---|---|-------------------------------------|
| No. 5  | - | The Land Registry Trading Fund Hong Kong Annual Report 2009-10 (published on 14.10.2010)  |                                     |
| No. 6  | - | Occupational Safety and Health Council Annual Report 2009/2010 (published on 14.10.2010)  |                                     |
| No. 7  | - | Protection of Wages on Insolvency Fund Board Annual Report 2009-10 (published on 14.10.2010)  |                                     |
| No. 8  | - | Environment and Conservation Fund<br>Signed and audited financial statements together with the report of the Director of Audit and report of the Trustee on the Administration of the Fund for the year ended 31 March 2010 (published on 14.10.2010) |                                     |
| No. 9  | - | West Kowloon Cultural District Authority Annual Report 2009/10 (published on 15.10.2010)  |                                     |
| No. 10 | - | Customs and Excise Service Welfare Fund<br>Signed and audited financial statements and the report of the Director of Audit for the year ended 31 March 2010 (published on 15.10.2010)   |                                     |
| No. 11 | - | Consumer Council Annual Report 2009-2010 (published on 18.10.2010)  |                                     |
| No. 12 | - | The Government Minute in response to the Reports of the Public Accounts Committee No. 53A and No. 54 of June and July 2010 (published on 19.10.2010)  |                                     |
| No. 13 | - | The Legislative Council Commission Annual Report  | 2009-2010 (published on 19.10.2010) |

Report No. 2/10-11 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments (published on 14.10.2010)

### Addresses

The Chief Secretary for Administration addressed the Council on the Government Minute in response to the Reports of the Public Accounts Committee No. 53A and No. 54 of June and July 2010.

### Questions

1. Hon Tanya CHAN asked Question 1.

The Secretary for Constitutional and Mainland Affairs replied.

Five Members asked supplementary questions and the Secretary for Constitutional and Mainland Affairs replied.

2. Hon Paul TSE asked Question 2.

The Secretary for Commerce and Economic Development replied.

Hon Paul TSE asked a supplementary question and the Secretary for Development replied.

Hon LI Fung-ying declared that she was an indigenous resident of the New Territories. She then asked a supplementary question. The Secretary for Development replied.

Three other Members asked supplementary questions. The Secretary for Commerce and Economic Development and the Secretary for the Environment replied.

3. Hon WONG Sing-chi asked Question 3.

The Secretary for Food and Health replied.

Four Members asked supplementary questions and the Secretary for Food and Health replied.

4. Hon Frederick FUNG asked Question 4.

The Secretary for Food and Health replied.

Three Members asked supplementary questions and the Secretary for Food and Health replied.

5. Hon CHEUNG Kwok-che asked Question 5.

The Secretary for Security replied.

Five Members asked supplementary questions and the Secretary for Security replied.

6. Hon LEUNG Yiu-chung asked Question 6.

The Secretary for Transport and Housing replied.

Four Members asked supplementary questions and the Secretary for Transport and Housing replied.

Written replies to Questions 7 to 20 were tabled for Members' information.

## **Bills**

### First Reading

#### Legislation Publication Bill

The Bill was read the first time and ordered to be set down for Second Reading under Rule 53(3) of the Rules of Procedure.

## Second Reading

### Legislation Publication Bill

The Secretary for Justice moved the Second Reading and spoke on the Bill.

Question on the Second Reading proposed. The President stated that in accordance with Rule 54(4) of the Rules of Procedure, the debate was adjourned and the Bill was referred to the House Committee.

## Motions

### Proposed resolution under the Pharmacy and Poisons Ordinance

The Secretary for Food and Health moved the following motion and spoke on the motion:

RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 13 September 2010, be approved —

- (a) the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2010; and
- (b) the Poisons List (Amendment) (No. 4) Regulation 2010.

Question on the motion proposed, put and agreed to.

### Proposed resolution under the Interpretation and General Clauses Ordinance

The Secretary for Financial Services and the Treasury moved the following motion and spoke on the motion:

RESOLVED that the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Brunei Darussalam) Order, published in the Gazette as Legal Notice No. 89 of 2010 and laid on the table of the Legislative Council on 7 July 2010, be amended as set out in the Schedule.

## Schedule

### Amendment to Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Brunei Darussalam) Order

1. Schedule amended

The Schedule, Chinese text, Part 1, Article 11, paragraph 3(b)(v) –

Repeal

“協會”

Substitute

“基金會”.

Question on the motion proposed.

Hon James TO spoke on the motion as the Chairman of the Subcommittee on the three Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) Orders gazetted on 2 July 2010.

The Secretary for Financial Services and the Treasury replied.

Question on the motion put and agreed to.

## **Members' Motions**

### Motion under Rule 49E(2) of the Rules of Procedure

The President stated that in accordance with the relevant debate procedure, he would call upon Hon Miriam LAU, mover of the motion, to move the motion first. The debate on the motion would be divided into two sessions. The first session was for debating the Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2010, and the second session was for debating the Waste Disposal (Clinical Waste) (General) Regulation and the Waste Disposal (Charge for Disposal of Clinical Waste) Regulation.

Hon Miriam LAU moved the following motion:

That this Council takes note of Report No. 2/10-11 of the House Committee laid on the Table of the Council on 20 October 2010 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(14)	Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2010 (L.N. 100/2010)
(3)	Waste Disposal (Clinical Waste) (General) Regulation (L.N. 83/2010)
(4)	Waste Disposal (Charge for Disposal of Clinical Waste) Regulation (L.N. 84/2010).

Question on Hon Miriam LAU's motion proposed.

The President announced the commencement of the first debate session on the Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2010.

Hon Albert CHAN spoke on the motion.

While Hon Albert CHAN was speaking, the President left the chair at 1:47 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

The Secretary for Food and Health spoke on the motion.

The President's Deputy announced the commencement of the second debate session on the Waste Disposal (Clinical Waste) (General) Regulation and the Waste Disposal (Charge for Disposal of Clinical Waste) Regulation.

A Member spoke on the motion.

The Secretary for the Environment spoke on the motion.

The President's Deputy stated that under Rule 49E(9) of the Rules of Procedure, she would not put any question on the motion.

### Improving personal data privacy protection

Hon WONG Kwok-hing moved the following motion and spoke on the motion:

That, in recent months, 'Octopus' and 'Autotoll' operated by public transport operators, the finance and insurance sector, and the electronic communications sector, etc., were found to have contravened the Personal Data (Privacy) Ordinance ('PDPO') and engaged in unauthorized transfer or sale of the personal data collected to make profits, with extensive implication and significant impact, affecting the personal data privacy right of millions of Hong

Kong people; among the above, 'Octopus', the monopoly operator of electronic money, even admitted that it had made a profit of over \$44 million by selling its clients' personal data; the 'Octopus' scandal has revealed that various smart cards currently available in the market, such as bonus cards, membership cards, credit cards, stored value cards and top-up cards, etc., are generally not in full compliance with the requirements of the PDPO, the public's personal data privacy are not properly protected and organizations are able to take advantage of the loopholes and grey areas of the PDPO to indiscriminately collect personal data beyond the scope of purpose for data collection publicly claimed by such organizations, and turn such data into their cash cows, and in the absence of monitoring, the situation has become very serious, causing considerable disturbance to people's daily life; however, due to the limited powers conferred by the law on the Office of the Privacy Commissioner for Personal Data ('PCPD') and constraint of resources, the PCPD is not able to exercise effective regulation, and the responsible government departments concerned have also failed to seriously shoulder the responsibility of protecting personal data privacy; in this connection, this Council urges the Government to immediately adopt the following measures to protect the general public's personal data privacy right:

- (a) to urge law enforcement departments to conduct a comprehensive and thorough investigation into all the companies and organizations involved in transfer and sale of clients' personal data and infringement of the public's privacy and to prosecute the same for criminal liability, and require such companies or organizations to destroy the public's personal data, which were illegally collected, under the supervision of an independent third party and to offer an apology and compensation to affected clients;
- (b) to comprehensively review and amend the PDPO immediately to plug the loopholes of the legislation and eliminate the grey areas, and at the same time increase the criminal sanction to achieve a deterrent effect;
- (c) to provide additional resources for the PCPD, so as to enhance its efficiency in handling complaints and step up enforcement to effectively protect the public's personal data privacy right;
- (d) to introduce clear clauses and requirements to ensure that consumers have the right to opt in, so as to ensure that consumers provide their personal data within the scope of the 'purpose of data collection' as specified by the organizations concerned without threats and inducements, and to step up efforts to combat and eradicate the indiscriminate collection of the public's personal data;

- (e) to legislate the regulation of application forms for all kinds of membership cards, credit cards, etc., including requiring that the fonts and contents of the advice and terms on the protection of consumers' personal data privacy right should be reasonably legible, in terms of font size, location and surface area, to any person with normal eyesight, and ensuring that people who are unable to clearly read the terms and thoroughly understand the scope of data to be collected will still be provided with clear advice on the choices available to them and information on the protection of personal data privacy right;
- (f) to legislate the regulation of all private and public corporations in Hong Kong by stipulating that they should in no circumstances transfer any personal data to third party companies, including their partner and subsidiary companies, without the explicit written consent and authorization from their clients, nor should such personal data be sold or used for profit-making purposes; and
- (g) to make reference to successful overseas experience and the operation mode of the Airport Authority Hong Kong and actively explore the option of the public sector operating the 'Octopus' smart card, so as to ensure that the personal data privacy of millions of Hong Kong people who have to use the Octopus card can be protected in a comprehensive and effective manner, thus fully preventing the personal data privacy of all Hong Kong people from being turned into cash cows again by public or private corporations.

Question on Hon WONG Kwok-hing's motion proposed.

The President's Deputy stated that three Members would move amendments to the motion. In accordance with the Rules of Procedure, the motion and the three amendments would be debated together in a joint debate.

Hon James TO, Hon WONG Ting-kwong and Hon CHAN Kin-por, who would move amendments, spoke on the motion and the amendments.

The Secretary for Constitutional and Mainland Affairs spoke on the motion and the amendments.

Seven Members and Hon IP Wai-ming spoke on the motion and the amendments.

At 3:58 pm, while Hon IP Wai-ming was speaking, the President resumed the chair.

Eight other Members spoke on the motion and the amendments.

Hon Fred LI declared that he was a member of the Consumer Council. He then spoke on the motion and the amendments.

Five more Members spoke on the motion and the amendments.

Hon WONG Kwok-hing spoke on the amendments.

The Secretary for Constitutional and Mainland Affairs spoke again.

While the Secretary for Constitutional and Mainland Affairs was speaking, Hon James TO asked whether he might at that moment elucidate a point he had made earlier which he considered to be misunderstood by the Secretary for Constitutional and Mainland Affairs. Hon James TO said that the Secretary for Constitutional and Mainland Affairs might be able to give a more appropriate reply after listening to his elucidation. The President stated that if Hon James TO wished to make such an elucidation, he should do so after the Secretary for Constitutional and Mainland Affairs had finished his speech. The President added that if Members were allowed to make such elucidation in the middle of the speech of a public officer and the latter was obliged to respond to the points raised in the elucidation, this would unnecessarily prolong the debate on the motion. This would also be in breach of the relevant provisions in the Rules of Procedure that Members, except movers of motion or amendments, should only speak once in a debate on a motion. The Secretary for Constitutional and Mainland Affairs then continued to speak.

After the Secretary for Constitutional and Mainland Affairs had spoken and with the permission of the President, Hon James TO elucidated the point which he considered to be misunderstood by the Secretary for Constitutional and Mainland Affairs.

Hon James TO moved the following amendment to Hon WONG Kwok-hing's motion:

To delete “,” after “That” and substitute with “privacy is a common value protected by international human rights treaties, but the privacy protection for the public under the existing legislation and regime in Hong Kong is not sufficient;”; to add “step up efforts to regulate enterprises’ resale of clients’ personal data and direct marketing,” after “grey areas,”; and to add “; (h) to appoint an independent investigation committee to thoroughly investigate the sale and handling of clients’ personal data by ‘Octopus’ and other sectors; (i) to urge the Privacy Commissioner for Personal Data (‘the Privacy Commissioner’) to expand the applicability of the register of data users to financial institutions such as ‘Octopus’ and banks, the insurance and telecommunications sectors, etc., require the enterprises concerned to declare to the Privacy Commissioner the collection, holding, use and disclosure of data, and submit a privacy compliance audit report to the Privacy Commissioner every two years; and (j) to fully implement section 33 of the PDPO as soon as possible to regulate the transfer of personal data to place outside Hong Kong” immediately before the full stop.

Question on Hon James TO's amendment to Hon WONG Kwok-hing's motion proposed and put.

Dr Hon Priscilla LEUNG claimed a division. The President then ordered the Council to proceed to a division under Rule 47(1) of the Rules of Procedure.

The President announced that among the Members returned by functional constituencies, 22 were present, five were in favour of the amendment, 11 against it and six abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 21 were in favour of the amendment, two against it and four abstained (voting record in **Appendix I**). Since the question was not agreed by a majority of each of the two groups of Members present, he declared that the amendment was negatived.

Hon Miriam LAU rose to move the following motion without notice:

That in the event of further divisions in relation to the motion on "Improving personal data privacy protection" or amendments thereto, the Council do proceed to each of such divisions after the division bell has been rung for one minute.

Question on the motion proposed, put and agreed to.

Hon WONG Ting-kwong moved the following amendment to Hon WONG Kwok-hing's motion:

To delete “,” after “That” and substitute with “it is a community consensus in Hong Kong that the Government and all public and private organizations should faithfully and properly protect the public's personal privacy, but”; to add “(c) to immediately implement section 33 of the PDPO to control the transfer of personal data to place outside Hong Kong, so as to prevent the lack of proper protection on personal privacy due to unreasonable resale of personal data to overseas companies;” after “deterrent effect;”; to delete the original “(c)” and substitute with “(d)”; to delete the original “(d)” and substitute with “(e)”; to add “(f) to amend the Unsolicited Electronic Messages Ordinance and the Do-not-call Registers required under the Ordinance to regulate person-to-person telemarketing activities, so as to ensure that consumers' personal data will not be used improperly in commercial marketing activities, which may cause enormous nuisance to the consumers concerned;” after “collection of the public's personal data;”; to delete the original “(e)” and substitute with “(g)”; to delete the original “(f)” and substitute with “(h)”; to delete “in no circumstances” after “stipulating that they should” and substitute with “not”; to delete “the explicit written consent and authorization from their clients, nor should such personal data be sold or used” after “subsidiary companies, without” and substitute with “stating clearly in separate terms for confirmation by the person concerned in any contracts involving transfer or conveyance of personal data whether such personal data are transferred or conveyed”; and to delete the original “(g)” and substitute with “(i)”.

Question on Hon WONG Ting-kwong's amendment to Hon WONG Kwok-hing's motion proposed and put.

Dr Hon Priscilla LEUNG claimed a division. The President then ordered the Council to proceed to a division under Rule 49(5) of the Rules of Procedure.

The President announced that among the Members returned by functional constituencies, 23 were present, 22 were in favour of the amendment and one against it; while among the Members returned by geographical constituencies through direct elections, 28 were present, 26 were in favour of the amendment and one against it (voting record in **Appendix II**). Since the question was agreed by a majority of each of the two groups of Members present, he declared that the amendment was passed.

As Hon WONG Ting-kwong's amendment had been passed, the President granted leave for Hon CHAN Kin-por to revise the terms of his amendment.

Hon CHAN Kin-por moved the following further amendment to Hon WONG Kwok-hing's motion as amended by Hon WONG Ting-kwong, and explained the revised terms of his amendment to the Council:

To add “; and (j) to examine the pros and cons of adopting opt-in and opt-out mechanisms in Hong Kong with reference to the practices of different places; in adopting such measures, the Government also needs to ensure that all industries and trades can do business in Hong Kong according to the law and also must not smother the room for survival of the industries concerned, including the direct marketing industry, thereby enabling a large number of practitioners to make a living” immediately before the full stop.

Question on Hon CHAN Kin-por's amendment to Hon WONG Kwok-hing's motion as amended by Hon WONG Ting-kwong proposed and put.

Hon James TO claimed a division. The President then ordered the Council to proceed to a division under Rule 49(5) of the Rules of Procedure.

The President announced that among the Members returned by functional constituencies, 23 were present, 22 were in favour of the amendment and one against it; while among the Members returned by geographical constituencies through direct elections, 28 were present, 18 were in favour of the amendment and nine against it (voting record in **Appendix III**). Since the question was agreed by a majority of each of the two groups of Members present, he declared that the amendment was passed.

Question on Hon WONG Kwok-hing's motion as amended by Hon WONG Ting-kwong and Hon CHAN Kin-por put and agreed to.

Facing up to the transport needs of people with disabilities

Hon LEUNG Yiu-chung moved the following motion and spoke on the motion:

That this Council passed motions on a number of occasions over the past few years calling for improvement to transport facilities for people with disabilities and offer of concessionary transport fares to them, but the Administration, some statutory transport corporations and other public transport operators still fail to fully face up to and give effect to the motions, and the crux of the problem is the Government's lack of a specific policy on fare concessions for people with disabilities and determination to make improvements; this Council strongly demands the Administration to take the lead in implementing and pushing various public transport operators to immediately and fully respond as well as give effect to the relevant motions previously passed by this Council and the recommendations in the Report of the Council's Subcommittee to Study the Transport Needs of and Provision of Concessionary Public Transport Fares for Persons with Disabilities in the last term; in addition, the Government must implement the following concrete measures to more comprehensively address the transport needs of people with disabilities so as to enable them to integrate into society more effectively:

- (a) to formulate a policy on fare concessions on public transport for people with disabilities;
- (b) in order to effectively assist people with disabilities in integrating into society, to adopt legislative, administrative and financial measures to press various major public transport operators to offer concessionary fares to them;
- (c) to put forth, in the near future, specific proposals and a timetable for introducing half-fare concession on public transport for all people with disabilities, so as to help them integrate into society and improve their life;
- (d) to allocate additional resources to comprehensively improve the Rehabus service and, in particular, enhance such service for people with disabilities living in remote areas and new towns;
- (e) to request the MTR Corporation Limited to expeditiously install facilities such as platform screen doors, platform gates and automatic mechanical gap fillers for all its rail lines in order to strengthen platform safety, and improve station facilities with a view to creating a barrier-free environment;

- (f) to request various public bus companies to expeditiously replace their buses with low floor type buses to cater for the transport needs of people with disabilities, and when a bus makes stops, inform passengers of the routing arrangement through its public address system for the convenience of the blind, and at the same time incorporate provisions in the new franchise agreements on public bus services to require bus companies to offer concessionary fares to people with disabilities;
- (g) to study subsidizing people with disabilities in need to purchase electrical wheelchairs so as to facilitate them to use public transport;
- (h) to request the Transport Department to explore waiving the licence fee for people with disabilities who purchase private cars with a cylinder capacity of over 1 500 c.c. so as to make it convenient for them to carry larger and heavier electrical wheelchair and supporting equipment, provide additional auto-fuel allowances for people with disabilities, subsidize drivers with disabilities for using private tunnels and provide parking spaces for them, so that people with disabilities do not have to pay high transportation fees; and
- (i) to step up consultation with people with disabilities to fully realize the concept of 'Transport for All', and strictly regulate public transport operators in providing barrier-free facilities, so as to enable more people with disabilities to use public transport and integrate into society.

Question on Hon LEUNG Yiu-chung's motion proposed.

The President stated that two Members would move amendments to the motion. In accordance with the Rules of Procedure, the motion and the two amendments would be debated together in a joint debate.

Hon WONG Kwok-hing, who would move an amendment, spoke on the motion and the amendments.

Hon Paul CHAN, who would move an amendment, declared that he was an independent non-executive director of Wharf (Holdings) Limited, which held the shares of the "Star" Ferry Company, Limited. He then spoke on the motion and the amendments.

The Secretary for Transport and Housing and the Secretary for Labour and Welfare spoke on the motion and the amendments.

Five Members and Hon WONG Yuk-man spoke on the motion and the amendments.

While Hon WONG Yuk-man was speaking, the President left the chair at 7:37 pm, temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Fourteen other Members spoke on the motion and the amendments.

Hon LEUNG Yiu-chung spoke on the amendments.

The Secretary for Transport and Housing spoke again.

At 9:19 pm, while the Secretary for Transport and Housing was speaking, the President resumed the chair.

The Secretary for Labour and Welfare spoke again.

Hon WONG Kwok-hing moved the following amendment to Hon LEUNG Yiu-chung's motion:

To add “, as the Government advocates the cultivation of a people-oriented, loving and caring social culture, and in retrospect,” after “That”; to add “all” after “transport facilities for”; to add “in Hong Kong” before “and offer of concessionary transport fares”; to add “and even though some public transport operators have given effect to the motions, they only do so in an unfair and selective manner,” after “give effect to the motions,”; to add “take the lead to” after “determination to”; to delete “and” after “implementing” and substitute with “in those public transport operators with the Government as the major shareholder and set an example for”; to delete “for people with disabilities” after “fare concessions on public transport” and substitute with “which covers all people with disabilities in Hong Kong, including those with different degree of disability”; to delete “them” after “major public transport operators to offer concessionary fares to” and substitute with “all people with disabilities in Hong Kong”; and to add “in Hong Kong” after “on public transport for all people with disabilities”.

Question on Hon WONG Kwok-hing's amendment to Hon LEUNG Yiu-chung's motion proposed, put and agreed to.

As Hon WONG Kwok-hing's amendment had been passed, the President granted leave for Hon Paul CHAN to revise the terms of his amendment.

Hon Paul CHAN moved the following further amendment to Hon LEUNG Yiu-chung's motion as amended by Hon WONG Kwok-hing:

To add “(e) to set aside a certain percentage of the cash dividends received from the MTR Corporation Limited each year to subsidize the transport fares of people with disabilities;” after “new towns;”; to delete the original “(e)” and substitute with “(f)”; to delete the original “(f)” and substitute with “(g)”; to delete the original “(g)” and substitute with “(h)”; to delete the original “(h)” and substitute with “(i)”; and to delete the original “(i)” and substitute with “(j)”.

Question on Hon Paul CHAN’s amendment to Hon LEUNG Yiu-chung’s motion as amended by Hon WONG Kwok-hing proposed, put and agreed to.

Hon LEUNG Yiu-chung replied.

Question on Hon LEUNG Yiu-chung’s motion as amended by Hon WONG Kwok-hing and Hon Paul CHAN put and agreed to.

### **Next meeting**

The President declared that the next meeting of the Council would be held on 27 October 2010 at 11:00 am.

The Council was adjourned at 9:35 pm.

(Jasper TSANG Yok-sing)  
President  
30 November 2010

Council Chamber  
Hong Kong

投票 VOTE: 1  
日期 DATE: 20/10/2010  
時間 TIME: 06:14:23 下午pm

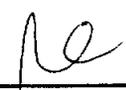
動議 MOTION: 涂謹申議員對王國興議員的「改善個人資料私隱的保障」議案作出的修正案  
AMENDMENT BY HON JAMES TO TO HON WONG KWOK-HING'S MOTION ON  
"IMPROVING PERSONAL DATA PRIVACY PROTECTION"

動議人 MOVED BY: 涂謹申James TO

	功能團體 Functional Constituencies	地方選區 Geographical Constituencies	最後結果 Final Result
出席 Present	22	28	
投票 Vote	22	27	
贊成 Yes	5	21	
反對 No	11	2	
棄權 Abstain	6	4	
結果 Result	否決 Negatived	通過 Passed	否決 Negatived

個別表決如下 THE INDIVIDUAL VOTES WERE AS FOLLOWS:

議員 MEMBER	投票 VOTE	議員 MEMBER	投票 VOTE
<b>功能團體 Functional Constituencies</b>		<b>地方選區 Geographical Constituencies</b>	
何鍾泰 Dr Raymond HO		曾鈺成 TSANG Yok-sing	出席 PRESENT
李國寶 Dr David LI		何俊仁 Albert HO	贊成 YES
吳靄儀 Dr Margaret NG	贊成 YES	李卓人 LEE Cheuk-yan	贊成 YES
張文光 CHEUNG Man-kwong	贊成 YES	李華明 Fred LI	贊成 YES
梁劉柔芬 Mrs Sophie LEUNG	反對 NO	涂謹申 James TO	贊成 YES
黃宜弘 Dr Philip WONG	反對 NO	陳鑑林 CHAN Kam-lam	棄權 ABSTAIN
黃容根 WONG Yung-kan	棄權 ABSTAIN	梁耀忠 LEUNG Yiu-chung	贊成 YES
劉皇發 LAU Wong-fat		劉江華 LAU Kong-wah	反對 NO
劉健儀 Miriam LAU	反對 NO	劉慧卿 Emily LAU	贊成 YES
霍震霆 Timothy FOK		鄭家富 Andrew CHENG	贊成 YES
石禮謙 Abraham SHEK		譚耀宗 TAM Yiu-chung	
李鳳英 LI Fung-ying	棄權 ABSTAIN	馮檢基 Frederick FUNG	贊成 YES
張宇人 Tommy CHEUNG		余若薇 Audrey EU	贊成 YES
方剛 Vincent FANG	反對 NO	王國興 WONG Kwok-hing	贊成 YES
李國麟 Dr Joseph LEE		李永達 LEE Wing-tat	贊成 YES
林健鋒 Jeffrey LAM	反對 NO	張學明 CHEUNG Hok-ming	棄權 ABSTAIN
梁君彥 Andrew LEUNG	反對 NO	湯家驊 Ronny TONG	贊成 YES
黃定光 WONG Ting-kwong	棄權 ABSTAIN	甘乃威 KAM Nai-wai	贊成 YES
詹培忠 CHIM Pui-chung	棄權 ABSTAIN	何秀蘭 Cyd HO	贊成 YES
劉秀成 Prof Patrick LAU	反對 NO	李慧琼 Starry LEE	棄權 ABSTAIN
林大輝 Dr LAM Tai-fai	反對 NO	陳克勤 CHAN Hak-kan	棄權 ABSTAIN
陳茂波 Paul CHAN	反對 NO	梁美芬 Dr Priscilla LEUNG	反對 NO
陳健波 CHAN Kin-por	反對 NO	黃成智 WONG Sing-chi	贊成 YES
梁家驩 Dr LEUNG Ka-lau		黃國健 WONG Kwok-kin	贊成 YES
張國柱 CHEUNG Kwok-che	贊成 YES	葉劉淑儀 Mrs Regina IP	
葉偉明 IP Wai-ming	贊成 YES	梁家傑 Alan LEONG	贊成 YES
葉國謙 IP Kwok-him	棄權 ABSTAIN	梁國雄 LEUNG Kwok-hung	贊成 YES
潘佩璆 Dr PAN Pey-chyau	贊成 YES	陳淑莊 Tanya CHAN	贊成 YES
謝偉俊 Paul TSE	棄權 ABSTAIN	陳偉業 Albert CHAN	贊成 YES
譚偉豪 Dr Samson TAM	反對 NO	黃毓民 WONG Yuk-man	贊成 YES

秘書 CLERK 

投票 VOTE: 2  
日期 DATE: 20/10/2010  
時間 TIME: 06:17:27 下午pm

動議 MOTION: 黃定光議員對王國興議員的「改善個人資料私隱的保障」議案作出的修正案  
AMENDMENT BY HON WONG TING-KWONG TO HON WONG KWOK-HING'S MOTION ON  
"IMPROVING PERSONAL DATA PRIVACY PROTECTION"

動議人 MOVED BY: 黃定光 WONG Ting-kwong

	功能團體 Functional Constituencies	地方選區 Geographical Constituencies	最後結果 Final Result
出席 Present	23	28	
投票 Vote	23	27	
贊成 Yes	22	26	
反對 No	1	1	
棄權 Abstain	0	0	
結果 Result	通過 Passed	通過 Passed	通過 Passed

個別表決如下 THE INDIVIDUAL VOTES WERE AS FOLLOWS:

議員 MEMBER	投票 VOTE	議員 MEMBER	投票 VOTE
<b>功能團體 Functional Constituencies</b>		<b>地方選區 Geographical Constituencies</b>	
何鍾泰 Dr Raymond HO		曾鈺成 TSANG Yok-sing	出席 PRESENT
李國寶 Dr David LI		何俊仁 Albert HO	贊成 YES
吳靄儀 Dr Margaret NG	贊成 YES	李卓人 LEE Cheuk-yan	贊成 YES
張文光 CHEUNG Man-kwong	贊成 YES	李華明 Fred LI	贊成 YES
梁劉柔芬 Mrs Sophie LEUNG	贊成 YES	涂謹申 James TO	贊成 YES
黃宜弘 Dr Philip WONG	贊成 YES	陳鑑林 CHAN Kam-lam	贊成 YES
黃容根 WONG Yung-kan	贊成 YES	梁耀忠 LEUNG Yiu-chung	贊成 YES
劉皇發 LAU Hong-fat		劉江華 LAU Kong-wah	贊成 YES
劉健儀 Miriam LAU	贊成 YES	劉慧卿 Emily LAU	贊成 YES
霍震霆 Timothy FOK		鄭家富 Andrew CHENG	贊成 YES
石禮謙 Abraham SHEK		譚耀宗 TAM Yiu-chung	
李鳳英 LI Fung-ying	贊成 YES	馮檢基 Frederick FUNG	贊成 YES
張宇人 Tommy CHEUNG		余若薇 Audrey EU	贊成 YES
方剛 Vincent FANG	贊成 YES	王國興 WONG Kwok-hing	贊成 YES
李國麟 Dr Joseph LEE		李永達 LEE Wing-tat	贊成 YES
林健鋒 Jeffrey LAM	贊成 YES	林學明 CHEUNG Hok-ming	贊成 YES
梁君彥 Andrew LEUNG	贊成 YES	湯家驊 Ronny TONG	贊成 YES
黃定光 WONG Ting-kwong	贊成 YES	甘乃威 KAM Nai-wai	贊成 YES
詹培忠 CHIM Pui-chung	贊成 YES	何秀蘭 Cyd HO	贊成 YES
劉秀成 Prof Patrick LAU	反對 NO	李慧琼 Starry LEE	贊成 YES
林大輝 Dr LAM Tai-fai	贊成 YES	陳克勤 CHAN Hak-kan	贊成 YES
陳茂波 Paul CHAN	贊成 YES	梁美芬 Dr Priscilla LEUNG	反對 NO
陳健波 CHAN Kin-por	贊成 YES	黃成智 WONG Sing-chi	贊成 YES
梁家驩 Dr LEUNG Ka-lau	贊成 YES	黃國健 WONG Kwok-kin	贊成 YES
張國柱 CHEUNG Kwok-che	贊成 YES	葉劉淑儀 Mrs Regina IP	
葉偉明 IP Wai-ming	贊成 YES	Alan LEONG	贊成 YES
葉國謙 IP Kwok-him	贊成 YES	梁國雄 LEUNG Kwok-hung	贊成 YES
潘佩璆 Dr PAN Pey-chyou	贊成 YES	陳淑莊 Tanya CHAN	贊成 YES
謝偉俊 Paul TSE	贊成 YES	陳偉業 Albert CHAN	贊成 YES
譚偉豪 Dr Samson TAM	贊成 YES	黃毓民 WONG Yuk-man	贊成 YES

秘書 CLERK

投票 VOTE: 3  
日期 DATE: 20/10/2010  
時間 TIME: 06:21:20 下午pm

動議 MOTION: 陳健波議員對王國興議員就「改善個人資料私隱的保障」所提，經涂謹申議員及黃定光議員修正的議案，作出的修正案  
AMENDMENT BY HON CHAN KIN-POR TO HON WONG KWOK-HING'S MOTION ON "IMPROVING PERSONAL DATA PRIVACY PROTECTION" AS AMENDED BY HON JAMES TO AND HON WONG TING-KWONG

動議人 MOVED BY: 陳健波CHAN Kin-por

	功能團體 Functional Constituencies	地方選區 Geographical Constituencies	最後結果 Final Result
出席 Present	23	28	
投票 Vote	23	27	
贊成 Yes	22	18	
反對 No	1	9	
棄權 Abstain	0	0	
結果 Result	通過 Passed	通過 Passed	通過 Passed

個別表決如下 THE INDIVIDUAL VOTES WERE AS FOLLOWS:

議員 MEMBER	投票 VOTE	議員 MEMBER	投票 VOTE
<b>功能團體 Functional Constituencies</b>		<b>地方選區 Geographical Constituencies</b>	
何鍾泰 Dr Raymond HO		曾鈺成 TSANG Yok-sing	出席 PRESENT
李國寶 Dr David LI		何俊仁 Albert HO	反對 NO
吳靄儀 Dr Margaret NG	贊成 YES	李卓人 LEE Cheuk-yan	贊成 YES
張文光 CHEUNG Man-kwong	反對 NO	李華明 Fred LI	反對 NO
梁劉柔芬 Mrs Sophie LEUNG	贊成 YES	涂謹申 James TO	反對 NO
黃宜弘 Dr Philip WONG	贊成 YES	陳鑑林 CHAN Kam-lam	贊成 YES
黃容根 WONG Yung-kan	贊成 YES	梁耀忠 LEUNG Yiu-chung	贊成 YES
劉皇發 LAU Wong-fat		劉江華 LAU Kong-wah	贊成 YES
劉健儀 Miriam LAU	贊成 YES	劉慧卿 Emily LAU	反對 NO
霍震霆 Timothy FOK		鄭家富 Andrew CHENG	反對 NO
石禮謙 Abraham SHEK		譚耀宗 TAM Yiu-chung	
李鳳英 LI Fung-ying	贊成 YES	馮檢基 Frederick FUNG	贊成 YES
張宇人 Tommy CHEUNG		余若薇 Audrey EU	贊成 YES
方剛 Vincent FANG	贊成 YES	王國興 WONG Kwok-hing	贊成 YES
李國麟 Dr Joseph LEE		李永達 LEE Wing-tat	反對 NO
林健鋒 Jeffrey LAM	贊成 YES	張學明 CHEUNG Hok-ming	贊成 YES
梁君彥 Andrew LEUNG	贊成 YES	湯家驊 Ronny TONG	贊成 YES
黃定光 WONG Ting-kwong	贊成 YES	甘乃威 KAM Nai-wai	反對 NO
詹培忠 CHIM Pui-chung	贊成 YES	何秀蘭 Cyd HO	反對 NO
劉秀成 Prof Patrick LAU	贊成 YES	李慧琼 Starry LEE	贊成 YES
林大輝 Dr LAM Tai-fai	贊成 YES	陳克勤 CHAN Hak-kan	贊成 YES
陳茂波 Paul CHAN	贊成 YES	梁美芬 Dr Priscilla LEUNG	贊成 YES
陳健波 CHAN Kin-por	贊成 YES	黃成智 WONG Sing-chi	反對 NO
梁家驩 Dr LEUNG Ka-lau	贊成 YES	黃國健 WONG Kwok-kin	贊成 YES
張國柱 CHEUNG Kwok-che	贊成 YES	葉劉淑儀 Mrs Regina IP	
葉偉明 IP Wai-ming	贊成 YES	梁家傑 Alan LEONG	贊成 YES
葉國謙 IP Kwok-him	贊成 YES	梁國雄 LEUNG Kwok-hung	贊成 YES
潘佩璆 Dr PAN Pey-chyou	贊成 YES	陳淑莊 Tanya CHAN	贊成 YES
謝偉俊 Paul TSE	贊成 YES	陳偉業 Albert CHAN	贊成 YES
譚偉豪 Dr Samson TAM	贊成 YES	黃毓民 WONG Yuk-man	贊成 YES