

# LEGISLATIVE COUNCIL

## MINUTES

### No. 13

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**Minutes of the meeting held on Wednesday 12 January 2011 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 Miriam LAU Kin-yee, GBS, JP

The Hon Emily LAU Wai-hing, JP

The Hon Andrew CHENG Kar-foo

The Hon Timothy FOK Tsun-ting, GBS, JP

The Hon TAM Yiu-chung, GBS, JP

The Hon Abraham SHEK Lai-him, SBS, JP

The Hon LI Fung-ying, SBS, JP

The Hon Tommy CHEUNG Yu-yan, 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

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

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

**Members absent:**

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

The Hon WONG Yuk-man

**Public officers attending:**

The Hon John TSANG Chun-wah, GBM, JP  
The Financial Secretary

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

The Hon Ambrose LEE Siu-kwong, GBS, IDSM, JP  
Secretary for Security

Prof Gabriel Matthew LEUNG, JP  
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 Eva CHENG, JP  
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 Constance LI TSOI Yeuk-lin, Assistant Secretary General (1)

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

Mrs Percy MA, Assistant Secretary General (4)

Noting the absence of a quorum, the President directed the Clerk to summon Members to the meeting. A quorum was then present.

### **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>L.N. No.</u>
1. Minimum Wage (Criteria for Approved Assessors) Notice (gazetted on 7.1.2011)	1/2011
2. Minimum Wage (Assessment Methods) Notice (gazetted on 7.1.2011)	2/2011

### **Other Papers**

No. 56 - Hong Kong Council for Accreditation of Academic and Vocational Qualifications Annual Report 2009-2010 (published on 6.1.2011)

No. 57 - Report on the Administration of the Fire Services Department Welfare Fund together with the Director of Audit's report and audited statement of accounts for the year ended 31 March 2010 (published on 6.1.2011)

Report No. 10/10-11 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments (published on 6.1.2011)

### **Questions**

1. Hon LEE Cheuk-yan asked Question 1.

The Secretary for Labour and Welfare replied.

Six Members asked supplementary questions and the Secretary for Labour and Welfare replied.

2. In accordance with Rule 26(6) of the Rules of Procedure, Hon Albert CHAN asked Question 2 on behalf of Hon WONG Yuk-man, who was not present to ask his question.

The Secretary for Labour and Welfare replied.

Five Members asked supplementary questions and the Secretary for Labour and Welfare replied.

3. Hon Jeffrey LAM asked Question 3.

The Secretary for Financial Services and the Treasury replied.

Four Members asked supplementary questions and the Secretary for Financial Services and the Treasury replied.

4. Hon KAM Nai-wai asked Question 4.

The Secretary for Security replied.

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

5. Ir Dr Hon Raymond HO asked Question 5.

The Secretary for Development replied.

Two Members asked supplementary questions and the Secretary for Development replied.

6. Hon Emily LAU asked Question 6.

The Secretary for Constitutional and Mainland Affairs replied.

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

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

## **Members' Motions**

### Proposed resolution under Rule 78(1) of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

Hon James TO moved the following motion and spoke on the motion:

That this Council appoints a select committee to inquire into the collection and transfer of customers' personal data to third parties for monetary gains by Octopus Holdings Limited and its subsidiaries, including the roles of the Board of Octopus Holdings Limited and the Board of MTR Corporation Limited as the biggest shareholder of Octopus Holdings Limited in the above matter, the process of decision making and execution of such collection and transfer of data, the possibility of further disclosure of those personal data by the third parties, and the duties and roles of related government bureaux, departments and public agencies in the above matter, and based on the results of the above inquiry, to look into whether any related legislation and monitoring and regulatory mechanism should be improved and if necessary make recommendations to enhance protection of the privacy of members of the public; and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1).

While Hon James TO was speaking, the President left the chair at 1:07 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Question on the motion proposed.

The Secretary for Financial Services and the Treasury spoke on the motion.

The Secretary for Transport and Housing said that she had nothing to supplement at that stage.

Twelve Members and Hon Audrey EU spoke on the motion.

At 3:15 pm, while Hon Audrey EU was speaking, the President resumed the chair.

Another Member spoke on the motion.

The Secretary for Financial Services and the Treasury spoke again.

Four more Members spoke on the motion.

The Secretary for Transport and Housing spoke on the motion.

Hon James TO replied.

While Hon James TO was speaking, Hon WONG Kwok-hing asked whether he might elucidate a point which he considered to be misunderstood by Hon James TO. The President stated that Hon WONG Kwok-hing should wait for Hon James TO to finish his speech. Hon James TO continued to speak.

After Hon James TO had spoken and with the permission of the President, Hon WONG Kwok-hing elucidated a point he had made earlier which he considered to be misunderstood by Hon James TO.

After Hon WONG Kwok-hing had made an elucidation, Hon James TO asked whether he could also elucidate a point which he considered to be misunderstood by Hon WONG Kwok-hing.

The President did not accede to Hon James TO's request. The President stated that Members were aware that under the Rules of Procedure, Members, except the mover of a motion, might not speak more than once on a motion. If Members, who had already spoken, made use of the arrangement of elucidation to respond to the points raised by other Members because they disagreed to those points, or they felt that they were disrespected or misunderstood by other Members, the debate would unnecessarily be prolonged. The President asked Members to observe the Rules of Procedure.

Question on the motion put.

Hon Abraham SHEK declared that he was an independent non-executive director of the MTR Corporation Limited.

Hon James TO 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, 23 were present, four were in favour of the motion and 19 against it; while among the Members returned by geographical constituencies through direct elections, 28 were present, 17 were in favour of the motion and 10 against it (voting record in the **Appendix**). Since the question was not agreed by a majority of each of the two groups of Members present, he declared that the motion was negatived.



Legislating for regulating allied health staff to protect public health

Dr Hon Joseph LEE moved the following motion and spoke on the motion:

That in recent years, the Government has striven to promote healthcare reform, advocated stepping up primary healthcare services, community rehabilitation services and the policy of ageing in place, etc., and emphasized the provision of appropriate primary healthcare services to members of the public, the elderly and chronic patients, etc. through multi-disciplinary healthcare services teams; however, under the Government's policy over the years, no legislation has been enacted to regulate the registration and practice of allied health staff, such as dietitians, audiologists, psychologists, speech therapists, podiatrists, prosthetists and ancillary dental workers, etc., resulting in some people in the market falsely claiming themselves as and impersonating various types of allied health staff to provide non-professional primary healthcare services for members of the public, thus posing dangers to the health of members of the public; in this connection, this Council urges the authorities to immediately put in place a statutory registration system for the relevant allied health staff and enact legislation to regulate their practice, with a view to promoting primary healthcare services and protecting the health of members of the public.

Question on Dr Hon Joseph LEE'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 CHEUNG Man-kwong and Hon Alan LEONG, who would move amendments, spoke on the motion and the amendments.

The Secretary for Food and Health spoke on the motion and the amendments.

Six Members spoke on the motion and the amendments.

Dr Hon Joseph LEE spoke on the amendments.

The Secretary for Food and Health spoke again.

Hon CHEUNG Man-kwong moved the following amendment to Dr Hon Joseph LEE's motion:

To add “the number of allied health staff involved in caring for public health is on the increase, and although the Government has formulated a statutory registration system for 12 types of healthcare practitioners, many types of allied health staff are still not regulated by legislation;” after “That”; to delete “put” after “immediately” and substitute with “collect data for ascertaining the number, qualifications and practice of various types of allied health staff and the possible risks posed to the public in case of malpractices, to extensively consult the public and the trades concerned, and to study the feasibility and necessity of putting”; and to delete “enact” after “allied health staff and” and substitute with “enacting”.

Question on Hon CHEUNG Man-kwong’s amendment to Dr Hon Joseph LEE’s motion proposed, put and agreed to.

As Hon CHEUNG Man-kwong’s amendment had been passed, the President granted leave for Hon Alan LEONG to revise the terms of his amendment.

Hon Alan LEONG moved the following further amendment to Dr Hon Joseph LEE’s motion as amended by Hon CHEUNG Man-kwong:

To add “; the relevant measures should include: (a) to establish related independent statutory bodies, with members drawn from the allied health staff concerned and representatives of various sectors in society; (b) to regulate the registration and licensing examinations for practitioners of the various professions, in order to ensure and facilitate the attainment of recognized standards of practice by the respective professions; (c) to put in place a framework for monitoring professional conduct, so as to ensure practitioners’ professional integrity; and (d) to increase the transparency of the respective professions and provide adequate information, with a view to educating and guiding members of the public on choosing the treatment appropriate to them” immediately before the full stop.

Question on Hon Alan LEONG’s amendment to Dr Hon Joseph LEE’s motion as amended by Hon CHEUNG Man-kwong proposed, put and agreed to.

Dr Hon Joseph LEE replied.

Question on Dr Hon Joseph LEE’s motion as amended by Hon CHEUNG Man-kwong and Hon Alan LEONG put and agreed to.

Post-office employment arrangements for politically appointed officials

Dr Hon Margaret NG moved the following motion and spoke on the motion:

That, as politically appointed officials have greater access to sensitive information and stronger influence on policy formulation than directorate civil servants, the control over the post-office employment of politically appointed officials should correspondingly be more stringent than that of directorate civil servants; however, under the existing Code for Principal Officials under the Accountability System, the control over the post-office employment of politically appointed officials is very loose; in this connection, this Council urges the Government to review the vetting system for the post-office employment of politically appointed officials, including introducing a sanitization period, extending the control period, and setting up an independent and highly transparent vetting and approving committee to vet politically appointed officials' applications for post-office employment, so as to allay public concern about any possible conflicts between accountability officials' exercise of powers and responsibilities and their pursuit of private interests, and to maintain public confidence in the governance of the HKSAR Government.

While Dr Hon Margaret NG was speaking, the President left the chair at 6:30 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Question on Dr Hon Margaret NG's motion proposed.

The President's Deputy stated that Dr Hon Philip WONG would move an amendment to the motion. In accordance with the Rules of Procedure, the motion and the amendment would be debated together in a joint debate.

Dr Hon Philip WONG moved the following amendment to Dr Hon Margaret NG's motion and spoke on the motion and the amendment:

To delete "correspondingly be more stringent than that of directorate civil servants" after "appointed officials should" and substitute with "be very stringent"; to delete "very loose; in this connection, this Council urges the Government to review the vetting system for the post-office employment of politically appointed officials, including introducing a sanitization period, extending the control period, and setting up an independent and highly transparent vetting and approving committee to vet politically appointed officials' applications for post-office employment, so as to allay" after "appointed officials is" and substitute with "less stringent than the existing control over the post-service work of directorate civil servants; although

politically appointed officials are different from civil servants in that they do not enjoy any security of tenure, in order to avoid”; and to add “, this Council urges the Government to expeditiously conduct a review of this issue” immediately before the full stop.

Question on Dr Hon Philip WONG’s amendment to Dr Hon Margaret NG’s motion proposed.

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

Five Members and Hon LEUNG Yiu-chung spoke on the motion and the amendment.

At 7:26 pm, while Hon LEUNG Yiu-chung was speaking, the President resumed the chair.

Nine other Members spoke on the motion and the amendment.

Dr Hon Margaret NG spoke on the amendment.

The Secretary for Constitutional and Mainland Affairs spoke again.

Question on Dr Hon Philip WONG’s amendment to Dr Hon Margaret NG’s motion put and agreed to.

Question on Dr Hon Margaret NG’s motion as amended by Dr Hon Philip WONG put and agreed to.

#### Motion for the adjournment of the Council

The President stated that under Rule 16(6) and (7) of the Rules of Procedure, the total speaking time for the debate was one and a half hours, of which 75 minutes were Members’ speaking time. Under rule 18(b) of the House Rules, each Member, including the mover of the motion, might speak for up to five minutes, and the public officer making a reply might speak for up to 15 minutes.

Hon LEUNG Kwok-hung moved the following motion and spoke on the motion:

That this Council do now adjourn for the purpose of debating the following issue: the HKSAR Government's handling on humanitarian grounds of matters relating to overseas pro-democracy figures' entry into Hong Kong for mourning the death of Mr SZETO Wah.

Question on the motion proposed.

Sixteen Members spoke on the motion.

The Secretary for Security replied.

Question on the motion put and agreed to.

### **Next meeting**

The President declared that the next meeting of the Council would be held on 13 January 2011 at 3:00 pm.

The Council was adjourned at 10:02 pm.

(Jasper TSANG Yok-sing)  
President  
16 February 2011

Council Chamber  
Hong Kong

投票 VOTE: 1  
 日期 DATE: 12/01/2011  
 時間 TIME: 04:43:57 下午pm

動議 MOTION: 根據《香港特別行政區立法會議事規則》第78(1)條動議的擬議決議案  
 PROPOSED RESOLUTION UNDER RULE 78(1) OF THE RULES OF PROCEDURE OF THE  
 LEGISLATIVE COUNCIL OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

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	23	28	
投票 Vote	23	27	
贊成 Yes	4	17	
反對 No	19	10	
棄權 Abstain	0	0	
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	反對 NO	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	反對 NO
黃容根 WONG Yung-kan		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	反對 NO	鄭家富 Andrew CHENG	贊成 YES
石禮謙 Abraham SHEK	反對 NO	譚耀宗 TAM Yiu-chung	反對 NO
李鳳英 Li Fung-ying	反對 NO	馮檢基 Frederick FUNG	贊成 YES
張宇人 Tommy CHEUNG	反對 NO	余若薇 Audrey EU	贊成 YES
方剛 Vincent FANG	反對 NO	王國興 WONG Kwok-hing	反對 NO
李國麟 Dr Joseph LEE	贊成 YES	李永達 LEE Wing-tat	贊成 YES
林健鋒 Jeffrey LAM	反對 NO	張學明 CHEUNG Hok-ming	反對 NO
梁君彥 Andrew LEUNG	反對 NO	Ronny TONG	
黃定光 WONG Ting-kwong	反對 NO	KAM Nai-wai	贊成 YES
詹培忠 CHIM Pui-chung		Cyd HO	贊成 YES
劉秀成 Prof Patrick LAU	反對 NO	李慧琼 Starry LEE	反對 NO
林大輝 Dr LAM Tai-fai	反對 NO	陳克勤 CHAN Hak-kan	反對 NO
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
梁家駒 Dr LEUNG Ka-lau		黃國健 WONG Kwok-kin	反對 NO
張國柱 CHEUNG Kwok-che	贊成 YES	葉劉淑儀 Mrs Regina IP	反對 NO
葉偉明 IP Wai-ming		Alan LEONG	贊成 YES
葉國謙 IP Kwok-him	反對 NO	LEUNG Kwok-hung	贊成 YES
潘佩璆 Dr PAN Pey-chyou	反對 NO	陳淑莊 Tanya CHAN	贊成 YES
謝偉俊 Paul TSE	反對 NO	陳偉業 Albert CHAN	贊成 YES
譚偉豪 Dr Samson TAM		黃毓民 WONG Yuk-man	

秘書 CLERK