

立法會
Legislative Council

LC Paper No. CB(2) 975/10-11

Ref : CB2/H/5/10

House Committee of the Legislative Council

**Minutes of the 12th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 21 January 2011**

Members present:

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Dr Hon 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
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 Abraham SHEK Lai-him, SBS, 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 WONG Ting-kwong, SBS, 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 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-ye, GBS, JP
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP
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
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun
Dr Hon PAN Pey-chyou
Hon Alan LEONG Kah-kit, SC

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 4

Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Miss Odelia LEUNG	Chief Council Secretary (2)6
Miss Kitty CHENG	Assistant Legal Adviser 5
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 11th meeting held on 14 January 2011

(LC Paper No. CB(2) 850/10-11)

The minutes were confirmed.

II. Matters arising

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

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

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 14 January 2011

(LC Paper No. LS 23/10-11)

3. The Chairman said that a total of nine items of subsidiary legislation were gazetted on 14 January 2011. With the exception of three items of subsidiary legislation made under the United Nations Sanctions Ordinance which were not required to be tabled in the Council, the other six items of subsidiary legislation were tabled in the Council on 19 January 2011.

4. Regarding the Building (Construction) (Amendment) Regulation 2011, the Chairman said that it sought to provide for the imposed load requirements for buildings and building works. The Regulation would come into operation on 1 August 2011. The Legal Service Division was seeking clarification from the Administration on certain technical issues and a further report might be issued if necessary.

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5. The Chairman further said that as the Regulation would have far reaching implications on future uses of buildings, such as the conversion of floors for residential activities to residential care homes, and in view of its complexity, she proposed that a subcommittee be formed to study it in detail. Members agreed. The following Members agreed to join: Ms Miriam LAU, Ms Audrey EU and Ms Cyd HO.

6. Regarding the three Regulations made under the United Nations Sanctions Ordinance which were not required to be tabled in the Council, i.e. United Nations Sanctions (Côte d'Ivoire) Regulation 2011, United Nations Sanctions (Arms Embargoes) Regulation (Repeal) Regulation and United Nations Sanctions (Sierra Leone) (Immigration Control) Regulation (Repeal) Regulation, the Chairman proposed to refer them to the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions ("the United Nations Sanctions Subcommittee") as they came within the terms of reference of the Subcommittee. Members agreed.

7. Dr Margaret NG, Chairman of the United Nations Sanctions Subcommittee, said that according to a report in the South China Morning Post on 16 January 2011, the United Nations Security Council ("UNSC") had passed a resolution imposing sanctions against Iran seven months ago. The sanctions could not be implemented in Hong Kong as the Administration had yet to make the relevant regulation. As Chairman of the United Nations Sanctions Subcommittee, she had requested the Secretariat to write to the Administration to seek clarification on the matter. Dr NG pointed out that one of the justifications given by the Administration for not requiring the tabling of such regulations in the Council was to enable the expeditious implementation of the relevant sanctions. However, the sanctions against Iran had yet to be implemented in Hong Kong notwithstanding their imposition by UNSC seven months ago. She requested the Chairman to convey her concern to CS.

8. The Chairman said that she would relay Dr Margaret NG's concern to CS.

9. Members did not raise any queries on the other five items of subsidiary legislation.

10. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation (except the subsidiary legislation not required to be tabled in the Council) was 16 February 2011.

IV. Further business for the Council meeting of 26 January 2011

(a) Tabling of papers

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

(LC Paper No. CB(2) 846/10-11 issued vide LC Paper No. CB(3) 425/10-11 dated 20 January 2011)

11. The Chairman said that the report covered four items of subsidiary legislation the period for amendment of which would expire on 26 January 2011. No Member had requested to speak on the subsidiary legislation.

12. Members noted the report.

(b) Questions

(LC Paper No. CB(3) 420/10-11)

13. The Chairman said that Mr Fred LI and Mr Vincent FANG had replaced their oral questions.

V. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 851/10-11)

14. The Chairman said that there were 14 Bills Committees, five subcommittees under the House Committee (i.e. two subcommittees on subsidiary legislation, two subcommittees on policy issues and one subcommittee on other Council business) and eight subcommittees under Panels in action.

15. The Chairman invited Members to note that the following three Bills Committees would have to work beyond three months since commencement of their work –

- (a) Bills Committee on Adaptation of Laws (Military References) Bill 2010;
- (b) Bills Committee on Securities and Futures and Companies Legislation (Structured Products Amendment) Bill 2010; and
- (c) Bills Committee on Competition Bill.

VI. Appointment of a subcommittee to study issues relating to the power of the Legislative Council to amend subsidiary legislation
(*LC Paper No. CB(2) 852/10-11*)

16. The Chairman said that during the discussion on issues arising from the Country Park (Designation) (Consolidation) (Amendment) Order 2010 at the meeting of the House Committee on 15 October 2010, Members had requested the Secretariat to collate information relating to the power of the Legislative Council ("LegCo") to amend subsidiary legislation, and agreed that Members would consider the appointment of a subcommittee under the House Committee to study the power of LegCo to amend subsidiary legislation after the information was available. The Chairman added that the Secretariat had collated the relevant information and had prepared a paper for Members' consideration.

17. The Chairman further said that the subcommittee, if formed, would focus its study on subsidiary legislation subject to negative vetting and would aim at completing its study and report to the House Committee within 12 months from its commencement of work. She invited Members' view on the appointment of the subcommittee.

18. Dr Margaret NG expressed support for the appointment of the subcommittee. She thanked the Secretariat for preparing the paper which was comprehensive and organized systematically. She requested the Secretariat to indicate in the paper the date of issuance and its having been prepared by the Secretariat.

19. Members agreed that a subcommittee be appointed under the House Committee to study issues relating to the power of LegCo to amend subsidiary legislation. Members also agreed to the proposed focus of study and time frame of the Subcommittee. The following Members agreed to join: Dr Margaret NG, Ms Emily LAU, Ms Cyd HO, Mr IP Kwok-him and Miss Tanya CHAN.

20. The Chairman said that the Secretariat would issue a circular to invite Members to join the Subcommittee.

VII. Proposal for activation of two subcommittees appointed by the Panel on Welfare Services
(*LC Paper No. CB(2) 853/10-11*)

21. At the invitation of the Chairman, Mr CHEUNG Kwok-che, Chairman of the Panel on Welfare Services ("the Panel"), said that at the meeting on 10 January 2011, the Panel decided to appoint two

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subcommittees, namely, the Subcommittee on retirement protection and the Subcommittee on improving barrier free access and facilities for persons with disabilities. He referred Members to the Panel's paper for information on the terms of reference and work plans of the two Subcommittees.

22. Mr CHEUNG Kwok-che further said that when the Panel decided to appoint the two Subcommittees, it noted that they would be placed on a waiting list as the number of subcommittees on policy issues in operation had already exceeded eight. Members had examined the implications on the workload of Panel members if the two Subcommittees were activated. After discussion, members agreed to seek the approval of the House Committee to activate the Subcommittees in the following order of priority: (a) Subcommittee on retirement protection; and (b) Subcommittee on improving barrier free access and facilities for persons with disabilities. He appealed to Members to support the Panel's proposal on the activation of the two Subcommittees.

23. The Chairman drew Members' attention to the provisions in the House Rules ("HR") relevant to activation and operation of subcommittees on policy issues. She said that under HR 26(a), the maximum number of subcommittees on policy issues appointed by the House Committee and Panels that might be in operation at any one time was eight. Ten such subcommittees were currently in operation, including two under the House Committee and eight under Panels. As the number of subcommittees in action had exceeded the quota of eight, the approval of the House Committee was sought for the commencement of work of the two Subcommittees. Under HR 26(b), where the number of Bills Committees in operation was less than 16, the House Committee might activate subcommittees on the waiting list after having considered the following -

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

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24. The Chairman further elaborated on the existing and anticipated number of Bills Committees and subcommittees to facilitate Members' consideration. She pointed out that 14 Bills Committees were currently in operation, leaving two vacant Bills Committee slots. Apart from the 10 subcommittees on policy issues, two subcommittees on subsidiary legislation were also in operation. Another eight Bills Committees and 11 subcommittees on subsidiary legislation would likely be appointed to scrutinize the various legislative proposals to be introduced in the coming three months, including the Companies Bill scheduled for introduction into the Council on 26 January 2011.

25. At the invitation of the Chairman, Secretary General briefed Members on the Secretariat's workload and manpower situation. She said that in anticipation of the heavy workload, The Legislative Council Commission had approved at its meeting on 20 January 2011 the creation of one temporary team each in Council Business Divisions 1 and 2 for servicing mainly committees for scrutiny of legislative proposals. With the additional staffing resources, the Secretariat would be able to provide service to one more subcommittee on policy issues in about three months' time, allowing time for recruiting the temporary staff.

26. The Chairman invited Members' views on the proposed activation of the two Subcommittees.

27. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") were concerned with the capacity not only of the Secretariat but also of Members to cope with the work of additional subcommittees on policy issues, in anticipation of an increase in the legislative scrutiny work in the months ahead, including the impending introduction of the voluminous Companies Bill into the Council. He pointed out that some committees had already had difficulties in having a quorum at their meetings. While not objecting to the proposed activation of the two Subcommittees, Members belonging to DAB considered it necessary to assess carefully the capacity of Members and the Secretariat to cope with the additional work.

28. The Chairman said that as the Subcommittees were appointed under the Panel, only Panel members could join. She noted that in deciding to appoint the two Subcommittees, the Panel had taken into account the implication on the workload of Panel members should the Subcommittees be activated. Given the Panel's support for their appointment, she believed that Panel members would participate actively in their work if they were activated.

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29. Members agreed to the proposal to activate the Subcommittee on retirement protection in about three months' time. Members also agreed that the Subcommittee on improving barrier free access and facilities for persons with disabilities could be activated after the other subcommittee of the Panel, i.e. the Subcommittee on Residential and Community Care Services for Persons with Disabilities and the Elderly, had completed its work.

VIII. Priority allocation of a debate slot to the Public Accounts Committee ("PAC")

(LC Paper No. PAC 74/10-11)

30. Mr Paul CHAN, Deputy Chairman of PAC, spoke on behalf of Dr Philip WONG, Chairman of PAC, who was indisposed. Mr CHAN said that PAC would table its report on Report No. 55 of the Director of Audit in the Council on 16 February 2011. One of the chapters of the PAC Report was on "Administration of the Direct Subsidy Scheme and Governance and Administration of Direct Subsidy Scheme Schools".

31. Mr Paul CHAN further said that the Direct Subsidy Scheme played a very important role in the education system in Hong Kong. The problems identified in the Director of Audit's Report had aroused wide public concern. For the purpose of enabling Members to express views on the issues examined by PAC as well as its conclusions and recommendations at a Council meeting, PAC had decided to seek the approval of the House Committee for the priority allocation of a debate slot for its Chairman, Dr Philip WONG, to move a motion for debate at the Council meeting of 2 March 2011 on the chapter of its Report on "Administration of the Direct Subsidy Scheme and Governance and Administration of Direct Subsidy Scheme Schools". The wording of the motion was set out in the Appendix to the paper.

32. Mr Paul CHAN added that should the House Committee accede to the request, PAC suggested that there should only be one other motion debate without legislative effect at the Council meeting. PAC also requested that the speaking time limit for the debate should be 15 minutes for each Member. He appealed to Members to support the PAC's requests.

33. The Chairman invited Members' views on the PAC's requests.

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34. Mr IP Kwok-him said that Members belonging to DAB had on an earlier occasion expressed concern about priority allocation of debate slots to chairmen of committees as it would affect Members' opportunities for moving a motion for debate in the Council. Nevertheless, they supported the PAC's requests as the subject of the motion debate was a PAC report and not a Government report as in the case of a similar request made to the House Committee at the meeting on 7 January 2011.

35. Ms Audrey EU expressed support for the PAC's requests for priority allocation of a slot for moving a motion for debate on issues concerning Direct Subsidy Scheme Schools. She said that as the Administration had indicated its intention to resume the Second Reading debate on the Motor Vehicle Idling (Fixed Penalty) Bill at the Council meeting of 2 March 2011, the business on the Agenda might not be finished on that day and the Council meeting would likely have to resume the following day.

36. The Chairman said that the President would decide on the appropriate meeting arrangement for the Council meeting.

37. Ms Cyd Ho said that apart from the Motor Vehicle Idling (Fixed Penalty) Bill, a debate on the Minimum Wage (Criteria for Approved Assessors) Notice and Minimum Wage (Assessment Methods) Notice would likely be held at the Council meeting of 2 March 2011. Being a PAC member, she considered that the debate on the PAC Report should cover not only the first chapter on "Administration of the Direct Subsidy Scheme" but also the second chapter on "Governance and administration of Direct Subsidy Scheme schools" in the Director of Audit's Report No. 55, as both chapters were of wide public concern.

38. Mr Paul CHAN clarified that the debate would cover both chapters one and two of the Director of Audit's Report. He would review the wording of the motion.

(Post-meeting note: The subjects of "Administration of the Direct Subsidy Scheme" and "Governance and administration of Direct Subsidy Scheme schools" were covered respectively in chapters one and two of the Director of Audit's Report. These two subjects would be included in one chapter of the PAC Report, hence the reference to only one chapter of the PAC Report in the wording of the motion for debate.)

39. Members agreed to the PAC's requests for priority allocation of a debate slot at the Council meeting of 2 March 2011. Members also agreed that only one other motion debate without legislative effect should be held at the Council meeting and the speaking time limit for the debate should be 15 minutes for each Member.

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40. In response to Ms Emily LAU's enquiry on the time for resumption of the Council meeting of 2 March 2011 if the business on the Agenda could not be finished on that day, the Chairman said that as no meetings between Members and District Council members had been scheduled in the morning of 3 March 2011, the Council meeting would be resumed at 9:00 am, subject to the President's decision.

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

Council Business Division 2
Legislative Council Secretariat
9 February 2011