

立法會

Legislative Council

LC Paper No. CB(2) 1190/10-11

Ref : CB2/H/5/10

House Committee of the Legislative Council

**Minutes of the 15th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 25 February 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 David LI Kwok-po, GBM, GBS, JP

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 LAU Wong-fat, GBM, GBS, 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

Mrs Constance LI	Assistant Secretary General 1
Mrs Justina LAM	Assistant Secretary General 3
Mr Matthew LOO	Acting Assistant Secretary General 4
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Mr Stephen LAM	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Miss Kitty CHENG	Assistant Legal Adviser 5
Ms Wendy KAN	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Mr YICK Wing-kin	Assistant Legal Adviser 8
Miss Josephine SO	Senior Council Secretary (2)1
Ms Amy YU	Senior Council Secretary (2)3
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

Action

**I. Confirmation of the minutes of the 14th meeting held on 18 February 2011
(LC Paper No. CB(2) 1124/10-11)**

The minutes were confirmed.

II. Matters arising

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

Non-attendance of bureau officials at special meetings of the Panel on Health Services on 17 January and 15 February 2011

2. The Chairman said that she had relayed to CS the Panel's grave dissatisfaction and regret with the non-attendance of the Secretary for Food and Health or the Under Secretary for Food and Health at its special meetings held on 17 January and 15 February 2011. CS had indicated that he would reply after understanding the matter.

Action

Relocation of the drug treatment and rehabilitation centres of Christian Zheng Sheng Association and provision of school places in South Lantau

3. The Chairman said that she had informed CS of the motion passed by the Panel on Education at its meeting on 14 February 2011 concerning the relocation of the drug treatment and rehabilitation centres of Christian Zheng Sheng Association and the provision of school places in South Lantau. She had also conveyed to CS Members' request for the Administration to provide a response to the Panel as soon as possible. CS had responded that he would follow up the matter.

(b) Inland Revenue (Amendment) Bill 2011

*(Paragraphs 20 and 21 of the minutes of the 14th House Committee meeting on 18 February 2011)
(LC Paper No. LS 31/10-11)*

4. The Chairman said that at the last House Committee meeting, Members considered it not necessary to set up a bills committee to study the Bill and noted that the Legal Service Division was continuing its scrutiny of the Bill. A further report on the outcome of the scrutiny was provided for the House Committee meeting.

5. Members noted the report.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 18 February 2011 and tabled in Council on 23 February 2011

(LC Paper No. LS 29/10-11)

6. The Chairman said that two items of subsidiary legislation, i.e. the Securities and Futures Ordinance (Amendment of Schedule 5) Notice 2011 and the Securities and Futures (Financial Resources) (Amendment) Rules 2011, were gazetted on 18 February 2011 and tabled in the Council on 23 February 2011.

7. Regarding the Securities and Futures Ordinance (Amendment of Schedule 5) Notice 2011, the Chairman said that it sought to amend Schedule 5 to the Securities and Futures Ordinance (Cap. 571) ("SFO") by adding a new type of regulated activity to Part 1 of the Schedule, i.e., "Type 10: providing credit rating services", so that the existing regulatory regime under SFO would apply to the provision of such services. As regards the Securities and Futures (Financial Resources) (Amendment) Rules 2011, it was to provide for paid-up share capital requirements and

Action

liquid capital requirements for corporations licensed for Type 10 regulated activity, and to impose a duty for such corporations to submit periodic returns to the Securities and Futures Commission. The Panel on Financial Affairs had been consulted on the legislative proposals at its meeting on 19 July 2010, and members did not raise objection to the proposals. The Chairman added that the two items of subsidiary legislation would come into operation on 1 June 2011.

8. Mr James TO considered it necessary to form a subcommittee to study the two items of subsidiary legislation.

9. The Chairman proposed that a subcommittee be formed to study the two items of subsidiary legislation in detail. Members agreed. The following Members agreed to join: Mr James TO and Mr CHIM Pui-chung.

10. The Chairman said that the Legislative Council ("LegCo") Secretariat would issue a circular to invite Members to join the proposed subcommittee. Should less than three Members join the subcommittee by the deadline for signification of membership, the subcommittee would not be formed in accordance with the House Rules. Members noted the arrangement.

IV. Further business for the Council meeting of 2 March 2011

(a) Tabling of papers

Report No. 14/10-11 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments
(*LC Paper No. CB(2) 1127/10-11 issued vide LC Paper No. CB(3) 503/10-11 dated 23 February 2011*)

11. The Chairman said that the report covered two items of subsidiary legislation, the period for amendment of which would expire on 2 March 2011. As some Members had notified their intention to speak on the two items of subsidiary legislation included in the report (i.e. the Minimum Wage (Criteria for Approved Assessors) Notice and the Minimum Wage (Assessment Methods) Notice), she, as Chairman of the House Committee, would move a motion to take note of the report in relation to the two items of subsidiary legislation at the Council meeting of 2 March 2011.

(b) **Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**

- (i) **Chief Executive Election (Amendment) Bill 2010**
- (ii) **Legislative Council (Amendment) Bill 2010**
- (iii) **Motor Vehicle Idling (Fixed Penalty) Bill**

12. The Chairman said that the relevant Bills Committees on the above Bills had reported to the House Committee at the last meeting. Members did not raise objection to the resumption of the Second Reading debates on these Bills.

V. Business for the Council meeting of 9 March 2011

(a) **Questions**

(LC Paper No. CB(3) 496/10-11)

13. 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**

Inland Revenue (Amendment) (No. 2) Bill 2011

14. The Chairman said that the Administration had given notice to present the above Bill to the Council. The House Committee would consider the Bill at its meeting on 11 March 2011.

(c) **Government motion**

Proposed resolution to be moved by the Secretary for Financial Services and the Treasury under the Public Finance Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 485/10-11 dated 18 February 2011.)

(LC Paper No. LS 30/10-11)

15. The Chairman said that the proposed resolution was for seeking funds on account to enable the Government to carry on its services between the start of the financial year on 1 April 2011 and the time when the Appropriation Ordinance 2011 came into operation. The aggregate total sum sought under all heads was fixed at \$60,220,429,000 this year. The sum sought last year was \$58,957,489,000. The aggregate total sum could not be exceeded without the approval of LegCo.

Action

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

(d) **Members' motions**

(i) **Motion on "Establishing a communication mechanism between China and Hong Kong"**

(Wording of the motion issued vide LC Paper No. CB(3) 501/10-11 dated 23 February 2011.)

17. The Chairman said that the above motion would be moved by Hon Ronny TONG and the wording of the motion had been issued to Members.

(ii) **Motion to be moved by Dr Hon LEUNG Ka-lau**

18. The Chairman said that the subject of the motion to be moved by Dr LEUNG Ka-lau was "Reforming the Hospital Authority".

19. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 2 March 2011.

Report on study of subsidiary legislation

20. The Chairman said that a list containing one item of subsidiary legislation the period for amendment of which would expire on 9 March 2011 had been tabled at the meeting. Members who wished to speak on the subsidiary legislation should notify the Clerk by 5:00 pm on Tuesday, 1 March 2011.

VI. Report of Bills Committees and subcommittees

(a) **Report of the Subcommittee on Building (Construction) (Amendment) Regulation 2011**

(LC Paper No. CB(1) 1380/10-11)

21. Ir Dr Raymond HO, Chairman of the Subcommittee, reported that the Subcommittee had held two meetings with the Administration. The Amendment Regulation sought to modernize and update the minimum imposed load requirements for buildings with a view to achieving more economical design and construction of building structures in line with local conditions and international standards. The Amendment Regulation would take effect from 1 August 2011.

Action

22. Ir Dr Raymond HO elaborated that the Subcommittee was in general supportive of the Amendment Regulation. Members stressed the importance for the Amendment Regulation to ensure safety of buildings. As regards the concern about the proposed reduction in minimum imposed load requirements for uses such as domestic use and restaurants, members noted that the Administration had examined the local situations and had made reference to the international standards. The relevant consultancy study concluded that there was room to reduce the minimum imposed load requirements on certain uses of buildings, such as domestic use, restaurants, car-parking areas, etc. The Administration had also pointed out that the proposed reduction in load requirements would save the use of building materials, bring about more economical structural design and construction of buildings and ensure structural design safety.

23. Ir Dr Raymond HO further reported that the Subcommittee had expressed concern that some property owners and users might change the floor uses of a building without permission, thus causing risk to loading safety of the building. The Administration had stressed the safety of activities carried out by occupiers in the building corresponding to the specified use. The Administration had also advised that occupiers should consult professionals for advice if they had doubts on the uses and loading capacity of their buildings, or if they wished to make changes in use. Members of the public could obtain detailed information regarding loading capacity of buildings through the plan viewing services of the Buildings Department. He added that both the Administration and the Subcommittee would not move any amendments to the Amendment Regulation.

24. The Chairman reminded Members that as the deadline for amending the Amendment Regulation was 9 March 2011, the deadline for giving notice of amendments, if any, was Wednesday, 2 March 2011.

(b) Continuation of work of subcommittees on policy issues
(LC Paper No. CB(2) 1125/10-11)

25. The Chairman said that the paper invited Members to note the latest progress of work of two subcommittees on policy issues appointed under Panels and which commenced work in March 2010, and to endorse their proposed continuation of work in the 2010-2011 session.

Subcommittee on Residential and Community Care Services for Persons with Disabilities and the Elderly under the Panel on Welfare Services

26. Mr CHEUNG Kwok-che, Chairman of the Subcommittee, explained the need for the continuation of work of the Subcommittee.

Action

He said that the Subcommittee had held nine meetings with the Administration since its establishment in March 2010. He referred Members to the Subcommittee's report for details of its work progress.

27. Mr CHEUNG Kwok-che further said that the Subcommittee had deliberated and made recommendations on new initiatives to increase the provision of subsidized residential care places for persons with disabilities and the elderly and support elders ageing in the community for the Administration's consideration. Noting that a number of new initiatives were coming on stream to enhance support for the frail elders and persons with severe disabilities to live in the community, the Subcommittee agreed on the need to hold further meetings with the Administration to follow up the relevant issues in the coming months. He appealed to Members to support the proposed continuation of work of the Subcommittee.

28. Members agreed to the continuation of work of the Subcommittee in the 2010-2011 session.

Subcommittee on Building Safety and Related Issues

29. Prof Patrick LAU, Chairman of the Subcommittee, explained the need for the continuation of work of the Subcommittee. He said that the incident of the collapse of a building at 45J Ma Tau Wai Road, To Kwa Wan, on 29 January 2010, had prompted the setting up of the Subcommittee under the Panel on Development in February 2010 to monitor the Administration's work in enhancing building safety in Hong Kong. From March 2010 to January 2011, the Subcommittee had held four meetings to study issues relating to the collapse of the building; inspection of buildings aged 50 or above; enforcement against unauthorized alteration works inside private premises and the Administration's proposed multi-pronged measures to enhance building safety.

30. Prof Patrick LAU further said that the Subcommittee considered it necessary to continue its work to follow up various outstanding issues. These included the full investigation report on the building collapse incident; enforcement against unauthorized building works; effects of Operation Building Bright and long-term solution to the water seepage problem. He appealed to Members to support the proposed continuation of work of the Subcommittee.

31. Members agreed to the continuation of work of the Subcommittee in the 2010-2011 session.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 1126/10-11)

32. The Chairman said that there were 13 Bills Committees, seven subcommittees under the House Committee (i.e. three subcommittees on subsidiary legislation, two subcommittees on policy issues and two subcommittees on other Council business) and eight subcommittees under Panels in action.

VIII. Proposal of Hon Andrew CHENG to seek the Legislative Council's authorization to empower the Panel on Transport to exercise the powers under the Legislative Council (Powers and Privileges) Ordinance to inquire into the causes for the significant increase of rail incidents in Hong Kong in recent years and related matters

(Letter dated 22 February 2011 from Hon Andrew CHENG to the Chairman of the House Committee (LC Paper No. CB(2) 1141/10-11(01))

33. At the invitation of the Chairman, Mr Andrew CHENG said that he had raised the proposal on account of the occurrence of a spate of railway incidents in recent years which had aroused public concern. As Chairman of the Panel on Transport ("the Panel"), he considered the frequent occurrence of incidents in particular the recent ones involving rail cracks worrying. He was concerned that the Administration would, as in the past, merely receive incident reports from the MTR Corporation Limited ("MTRCL") without taking any improvement actions. He considered it necessary to address the problem squarely, hence his proposal to seek the Council's authorization to empower the Panel to exercise the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("P&P Ordinance") to order MTRCL to produce information relating to the railway incidents in at least the past five years and to provide an explanation as to why the aggregate duration of incidents resulting in service disruption lasting over eight minutes had amounted to over 4 000 minutes in the past few years. These incidents included faulty tracks, signal system failure, power disruption, etc. With the Council's authorization, the Panel could order MTRCL to provide information on its purchases of materials including tracks, procedures for track installation, maintenance methods and their effectiveness and resources allocated for maintenance. He stressed that the Administration owed LegCo an explanation for all these incidents, and its perfunctory handling of the past railway incidents by the mere receipt of reports from MTRCL was not acceptable.

Action

34. Mr Andrew CHENG further said that while Members might not have the relevant expertise to inquire into the railway incidents, they could engage independent experts to assist in the matter. He had doubts on the independent advice given by experts and consultants to MTRCL as many of them had been involved in works contracts with MTRCL or the Administration. He cautioned that railway incidents could have serious or even fatal consequences. He had been fed with information from staff of MTRCL about the perfunctory manner in which maintenance and inspection of purchases were conducted. Given the gravity of the problem, he stressed the need to address it expeditiously.

35. Mr Andrew CHENG elaborated that during the Panel meeting held in the morning of the day of the House Committee meeting, some members had suggested deferring discussion on his proposal pending receipt of the report from the Administration the following month. Noting that he would unlikely obtain the Panel's support for his proposal, he had indicated at the Panel meeting withdrawal of his proposal for the House Committee meeting. However, in no time did he begin to receive electronic messages questioning his decision to withdraw the proposal. At the same time, he had also learnt of the advice from the Clerk to the House Committee on the need to withdraw his proposal in writing. After further consideration, he decided not to withdraw his proposal and had so informed members before the end of the Panel meeting. He apologized for any inconvenience caused because of communication problem with the Secretariat. He added that should the House Committee not support his proposal, he would still move a motion in this regard in the Council.

36. Mr CHEUNG Hok-ming said that during the discussion at the Panel meeting, there was consensus among members that, as the Administration would submit a report on the matter in the following month, the Subcommittee on Matters Relating to Railways ("the Subcommittee") would follow it up. Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong did not support the proposal to invoke the powers under the P&P Ordinance at the current stage.

37. Mr WONG Sing-chi said that he had also attended the Panel meeting. As Mr Andrew CHENG had indicated at the meeting his withdrawal of the proposal, Members belonging to the Democratic Party had not discussed it thoroughly before the House Committee meeting. Should a vote be taken on the proposal at the House Committee meeting, they would abstain.

Action

38. Dr Margaret NG said that while it might not be necessary for Members to await the relevant report from the Administration before deciding whether to invoke the powers under the P&P Ordinance, she considered it necessary for Mr Andrew CHENG to provide more information on the documents he wished to obtain should the Panel be empowered to exercise the powers under the P&P Ordinance, so as to facilitate Members' consideration of his proposal. She suggested deferring discussion on Mr CHENG's proposal to the next House Committee meeting pending his provision of more information to Members.

39. Mr Andrew CHENG said that should the House Committee support his proposal to seek the authorization to empower the Panel to exercise the powers conferred by the P&P Ordinance, the scope of the inquiry and the information to be sought would be further discussed. He understood Members' concern on the need for information on the scope of the proposed inquiry and would endeavour to provide his views on the matter as soon as possible. He did not subscribe to the view that Members should await the Administration's report before deciding whether to invoke the powers under the P&P Ordinance. He pointed out that Members had received many reports from the Administration and MTRCL on railway incidents in the past and he doubted whether the report to be provided by the Administration next month could resolve the problem. He reiterated the occurrence of many railway incidents in recent years and the need to investigate the matter thoroughly. He agreed with Dr Margaret NG's suggestion for deferring discussion on his proposal to the next House Committee meeting, and added that he would provide supplementary information to Members.

40. Mr Jeffrey LAM considered it not appropriate to defer discussion on the proposal at the next House Committee meeting. He suggested that the proposal be put to vote.

41. Mr Andrew CHENG said that as Members might need some time to discuss his proposal before coming to a stance and given the appointed starting time of the Finance Committee meeting at 3:00 pm, he accepted the deferral of discussion on his proposal to the next House Committee meeting. In the meantime, he would provide some information to Members to facilitate their discussion.

42. Mr Jeffrey LAM was concerned that as the Council meeting of 2 March 2011 might last for a few days, the date and time of the next House Committee meeting could not be certain.

Action

43. The Chairman said that there was a possibility that the next House Committee meeting might not be held on the following Friday. Under the circumstances, Mr Andrew CHENG's proposal could be considered at the House Committee meeting in the next following week.

44. Mr Andrew CHENG said that he noted Members' concerns. As the Subcommittee would discuss the matter at its next meeting on 18 March 2011 and there might be new developments, he would decide how to take forward his proposal after that meeting.

IX. Any other business

45. There being no other business, the meeting ended at 3:00 pm.

Council Business Division 2
Legislative Council Secretariat
2 March 2011