

立法會
Legislative Council

LC Paper No. CB(2) 1783/10-11

Ref : CB2/H/5/10

House Committee of the Legislative Council

**Minutes of the 22nd meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 13 May 2011**

Members present:

Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
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 Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP

Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Hak-kan
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun
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
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Tanya CHAN

Members absent :

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Starry LEE Wai-king, JP
Dr Hon LEUNG Ka-lau
Dr Hon Samson TAM Wai-ho, JP
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man

Clerk in attendance :

Miss Odelia LEUNG 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
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Mrs Pandora CHAN	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Ms Clara TAM	Assistant Legal Adviser 9
Miss Evelyn LEE	Assistant Legal Adviser 10
Miss Josephine SO	Senior Council Secretary (2)7
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 21st meeting held on 6 May 2011
(LC Paper No. CB(2) 1713/10-11)

The minutes were confirmed.

II. Matters arising

Report by the Chairman on the meeting with the Chief Secretary for Administration

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

III. Business arising from previous Council meetings

(a) Legal Service Division report on bill referred to the House Committee in accordance with Rule 54(4)

Lifts and Escalators Bill

(LC Paper No. LS 59/10-11)

3. At the invitation of the Deputy Chairman, Legal Adviser ("LA") said that the Bill sought to replace the existing regulatory regime provided by the Lifts and Escalators (Safety) Ordinance (Cap. 327). The Legal Service Division ("LSD") was continuing the scrutiny of the Bill which was voluminous.

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4. LA further said that according to the information provided by the Administration, public consultation was conducted from November 2009 to February 2010. The public and stakeholders were in general supportive of the legislative proposals. The Panel on Development had been briefed on the legislative proposals in 2009 and 2010, and members in general welcomed early introduction of the Bill. He added that given the significant and substantial changes to the regulatory regime, Members might consider it necessary to form a Bills Committee to study the Bill in detail.

5. Mr IP Kwok-him said that as the Bill involved criminal liability issues, he considered it necessary to form a Bills Committee to study it.

6. The Deputy Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Ms LI Fung-ying, Mr CHEUNG Hok-ming, Mr IP Wai-ming and Mr IP Kwok-him.

7. The Deputy Chairman said that as there was a vacant slot, the Bills Committee could commence work immediately.

(b) Legal Service Division report on subsidiary legislation gazetted on 6 May 2011 and tabled in Council on 11 May 2011
(LC Paper No. LS 58/10-11)

8. The Deputy Chairman said that only one item of subsidiary legislation, i.e. the Tramway Ordinance (Alteration of Fares) (Amendment) Notice 2011, was gazetted on 6 May 2011 and tabled in the Council on 11 May 2011.

9. At the invitation of the Deputy Chairman, LA said that the Notice was made by Hong Kong Tramways Limited ("HKT") under section 51 of the Tramway Ordinance (Cap. 107) ("the Ordinance") with the consent of the Chief Executive in Council to alter the fares payable for travelling on the tramway.

10. Referring to paragraph 2 of the LSD Report, LA highlighted that HKT had applied for an increase in adult fares from \$2.0 to \$2.3, child fares from \$1.0 to \$1.2, and the price of a monthly ticket from \$170 to \$200. The alteration of fares as set out in the Notice would come into force one month after its publication in the Gazette, i.e. 7 June 2011, under section 51(2) of the Ordinance.

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11. LA further said that the Panel on Transport had been consulted on HKT's original proposal for fare increase at its meeting on 17 December 2010. While members generally recognized the need for maintaining the financial viability of tram service and supported the improvement projects proposed by HKT, they considered the proposed increase of about 25% too drastic. Subsequently, upon the Administration's further discussion with HKT, HKT agreed to adopt a lower fare increase of 15% to 20% as set out in the Notice.

12. Dr Margaret NG said that while she had no particular view on the proposals in the Notice, she was concerned about the provisions in the Ordinance governing the alteration of fares and commencement of fare increase, the power of the Legislative Council ("LegCo") to amend the Notice, the scrutiny period of the Notice by LegCo and the legal principles involved. Should Members have no objection to the proposals in the Notice and consider it not necessary to form a subcommittee to examine it, she suggested that the Notice be referred to the Subcommittee to Study Issues Relating to the Power of LegCo to Amend Subsidiary Legislation.

13. Dr Margaret NG further said that according to her recollection, the Ordinance was a Member's Bill presented to the Council by Mr WU Ting-fan, the first Chinese LegCo Member.

14. Members agreed that it was not necessary to form a subcommittee to study the Notice. Members also agreed to the suggestion of referring the Notice to the Subcommittee to Study Issues Relating to the Power of LegCo to Amend Subsidiary Legislation.

15. The Deputy Chairman reminded Members that the deadline for amending the Notice was 8 June 2011, or 29 June 2011 if extended by resolution.

IV. Further business for the Council meeting of 18 May 2011

Tabling of papers

Report No. 22/10-11 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2) 1711/10-11 issued vide LC Paper No. CB(3) 736/10-11 dated 12 May 2011)

16. The Deputy Chairman said that the report covered two items of subsidiary legislation, i.e. the Declaration of Constituencies (District

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Councils) Order 2011 and the Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011, the period for amendment of which would expire on 18 May 2011. The Deputy Chairman further said that as some Members had indicated their intention to speak on these two items of subsidiary legislation, the Chairman of the House Committee would move a motion to take note of the report in relation to these two items of subsidiary legislation.

17. The Deputy Chairman further said that in accordance with Rule 49E(7) of the Rules of Procedure, if the motion related to more than one item of subsidiary legislation or instruments, the debate on the motion might be divided into sessions each of which related to one or more items of subsidiary legislation or instruments. The Deputy Chairman proposed that the debate on the two items of subsidiary legislation be divided into two sessions, one covering the Declaration of Constituencies (District Councils) Order 2011 and the other the Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011. Members agreed.

18. The Deputy Chairman added that the speaking time limit for each Member at each session of the debate was 15 minutes.

V. Business for the Council meeting of 25 May 2011

(a) **Questions**
(*LC Paper No. CB(3) 727/10-11*)

19. The Deputy Chairman said that 20 questions (six oral and 14 written) had been scheduled for the meeting.

(b) **Bills - First Reading and moving of Second Reading**

(i) **Enduring Powers of Attorney (Amendment) Bill 2011**

(ii) **Road Traffic (Amendment) Bill 2011**

20. The Deputy Chairman said that the Administration had given notice to present the above two Bills to the Council on 25 May 2011. The House Committee would consider these Bills at its meeting on 27 May 2011.

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

Inland Revenue (Amendment) (No. 3) Bill 2011

21. The Deputy Chairman said that at the last House Committee meeting, Members did not raise objection to the resumption of the Second Reading debate on the above Bill.

(d) **Government motion**

22. The Deputy Chairman said that no notice had been received yet.

(e) **Members' motions**

(i) **Motion to be moved by Hon Cyd HO Sau-lan**

23. The Deputy Chairman said that the subject of the motion to be moved by Ms Cyd HO was "Safeguarding freedom of the press and the right to expression".

(ii) **Motion to be moved by Hon LAU Kong-wah**

24. The Deputy Chairman said that the subject of the motion to be moved by Mr LAU Kong-wah was "Hong Kong as a sustainable regional cultural hub".

25. The Deputy Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 18 May 2011.

VI. Report of Bills Committees and subcommittees

(a) **Report of the Subcommittee on Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011**
(LC Paper No. CB(2) 1717/10-11)

26. The Deputy Chairman said that Mr TAM Yiu-chung, Chairman of the Subcommittee, had made a verbal report at the last House Committee meeting. He invited Members to note the written report of the Subcommittee.

27. Members did not raise any queries on the report.

(b) Report of the Subcommittee on Proposed Senior Judicial Appointments

(LC Paper No. CB(2) 1714/10-11)

28. Dr Margaret NG, Chairman of the Subcommittee, reported on the deliberations of the Subcommittee as detailed in its report.

29. Dr Margaret NG reported that the Subcommittee supported the proposed appointments of Lord Collins and Lord Clarke as non-permanent judges from other common law jurisdictions to the Court of Final Appeal and Mr Justice Andrew CHEUNG Kui-nung as the Chief Judge of the High Court. In response to the Subcommittee's request, the Judiciary Administration had provided further information on the major publications of and judgments made by the recommended appointees. Members had also expressed views on the procedure for considering judicial appointments by LegCo.

30. Dr Margaret NG added that the Subcommittee had no objection to the Administration giving notices of motions to seek the endorsement of LegCo on the recommended appointments.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 1716/10-11)

31. The Deputy Chairman said that there were 16 Bills Committees, seven subcommittees under the House Committee (i.e. two subcommittees on subsidiary legislation/other instruments, two subcommittees on policy issues and three subcommittees on other Council business) and nine subcommittees under Panels in action.

32. There being no other business, the meeting ended at 2:43 pm