

立法會
Legislative Council

LC Paper No. CB(2)1885/10-11
(These minutes have been seen by
the Administration)

Ref : CB2/HS/1/10

**Subcommittee to Study Issues Relating to the Power of the
Legislative Council to Amend Subsidiary Legislation**

**Minutes of meeting
held on Wednesday, 20 April 2011, at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Dr Hon Margaret NG (Chairman)
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Dr Hon Priscilla LEUNG Mei-fun
Hon IP Kwok-him, GBS, JP
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Cyd HO Sau-lan
Hon Tanya CHAN
- Public Officers attending** : Item I

Ms Roxana CHENG
Deputy Solicitor General (Constitutional)
Department of Justice

Miss LEE Sau-kong
Senior Assistant Solicitor General
Department of Justice

Miss Agnes WONG, JP
Deputy Director of Administration
Administration Wing, Chief Secretary for
Administration's Office

Attendance by invitation : Item I
Hong Kong Bar Association

Mr P Y LO

Ms Bonnie CHENG Yan-ki

Clerk in attendance : Mrs Sharon TONG
Principal Council Secretary (2)

Staff in attendance : Mr KAU Kin-wah
Senior Assistant Legal Adviser 3

Mr Jove CHAN
Senior Council Secretary (2) 8

Ms Camy YOONG
Clerical Assistant (2) 7

I. Issues relating to the power of the Legislative Council to amend subsidiary legislation

The Subcommittee deliberated (index of proceedings attached at **Annex**).

2. The Subcommittee requested the Administration -

- (a) to provide supplementary information on the principles and policies for delegating legislative powers by empowering an Executive Authority or other body to make subsidiary legislation;
- (b) to provide a detailed response to the Hong Kong Bar Association's submission (LC Paper No. CB(2)1525/10-11(01)), in particular paragraph 29 of the submission and its footnote; and
- (c) to advise since when the Legislative Council was empowered to amend subsidiary legislation, and since when the power of the United Kingdom Parliament to amend subsidiary legislation had ceased and the rationale for the cessation.

3. The Subcommittee requested Senior Assistant Legal Adviser 3 to provide information on the remedial works on how certain subsidiary legislation, which should have been published as legal notices instead of general notices, were gazetted in 1999.

II. Any other business

Date of next meeting

4. The Chairman asked the Clerk to schedule the next meeting in consultation with her.

5. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
25 May 2011

**Proceedings of meeting of the
Subcommittee to Study Issues Relating to the Power of the
Legislative Council to Amend Subsidiary Legislation
held on Wednesday, 20 April 2011, at 2:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000329	Chairman	Opening remarks	
000330 - 002226	Chairman Admin	Briefing by the Administration on its paper "Delegation by the legislature of the power to make subsidiary legislation to an Executive Authority or other body" (LC Paper No. CB(2)1558/10-11(01))	
002226 - 003550	Chairman Admin	Briefing by the Administration on its paper "Principles underlying the cases quoted in the LegCo Secretariat's information paper LC Paper No. CB(2)852/10-11" (LC Paper No. CB(2)1558/10-11(02))	
003551 - 003716	Chairman Admin	Comments on the absence of basic principles and policies on delegation of power to an Executive Authority or other body to make subsidiary legislation in the Administration's papers	The Subcommittee requested the Administration to provide supplementary information on the principles and policies for delegating legislative powers by empowering an Executive Authority to make subsidiary legislation
003717 - 005751	Chairman Hong Kong Bar Association	Presentation of views (LC Paper No. CB(2)1525/10-11(01))	
005752 011551	Chairman Mr LAU Kong-wah Hong Kong Bar Association Admin SALA3	Clarification of the views of the Bar Association, the Administration and SALA3 on the principles for delegating legislative powers to an executive authority or another body to make subsidiary legislation with reference to the case of Eastern Harbour Crossing Tunnel	
011552 - 013249	Chairman Dr Philip WONG SALA3	The causes and resolution of disputes between LegCo and the Administration in defining and amending subsidiary legislation Difference between LegCo and the Administration in the interpretation of	The Subcommittee requested SALA3 to provide information on the remedial works on how certain subsidiary legislation, which should have been published as legal notices instead of

Time marker	Speaker	Subject(s)	Action Required
		section 14 of the Country Parks Ordinance (Cap. 208)	general notices, were gazetted in 1999
013250 - 013817	Chairman	The Chairman's comments on the Administration's approach in interpreting section 28(1)(C) of The Interpretation and General Clauses Ordinance (Cap. 1) in paragraph 8 of its paper (LC Paper No. CB(2)1558/10-11(01) and hence the power of LegCo to amend subsidiary legislation	
013818 - 015149	Chairman Dr Philip WONG Hong Kong Bar Association	Views on seeking judicial review to resolve the disputes between LegCo and the Administration	
015150 - 015552	Chairman Mr LAU Kong-wah Admin Hong Kong Bar Association	The cessation of parliamentary power to amend subsidiary legislation in the United Kingdom	The Subcommittee requested the Administration to advise since when LegCo was empowered to amend subsidiary legislation, and since when the UK parliament's power to amend subsidiary legislation had ceased and the rationale for cessation
015553 - 015935	Chairman Ms Emily LAU Admin	Proposed judicial review on the resolution to repeal the Country Parks (Designation) (Consolidate) (Amendment) Order 2010	The Subcommittee requested the Administration to provide its response to Hong Kong Bar Association's submission, in particular paragraph 29 of the submission and its footnote
015936 - 020041	Chairman	Date of next meeting	The Clerk to schedule the next meeting in consultation with the Chairman