

立法會
Legislative Council

LC Paper No. CB(3) 745/11-12

Ref : CB(3)/M/MM

Tel : 3919 3300

Date : 11 May 2012

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 16 May 2012

**Amendments to motion on
“Enhancing the accountability of charities and
complying with the best practices in corporate governance”**

Further to LC Paper No. CB(3) 712/11-12 issued on 4 May 2012, three Members (Hon James TO, Hon Alan LEONG and Hon CHEUNG Kwok-che) have respectively given notices of their intention to move separate amendments to Hon Paul CHAN’s motion on “Enhancing the accountability of charities and complying with the best practices in corporate governance” scheduled for the Council meeting of 16 May 2012. As directed by the President, the respective amendments will be printed in the terms in which they were handed in on the Agenda of the Council.

2. The President will order a joint debate on the above motion and amendments. To assist Members in debating the motion and amendments, I set out below the procedure to be followed during the debate:

- (a) the President calls upon Hon Paul CHAN to speak and move his motion;
- (b) the President proposes the question on Hon Paul CHAN’s motion;
- (c) the President calls upon the three Members, who intend to move amendments, to speak in the following order, but no amendment is to be moved at this stage:

- (i) Hon James TO;
 - (ii) Hon Alan LEONG; and
 - (iii) Hon CHEUNG Kwok-che;
- (d) the President calls upon the designated public officer(s) to speak;
- (e) the President invites other Members to speak;
- (f) the President gives leave to Hon Paul CHAN to speak for the second time on the amendments;
- (g) the President calls upon the designated public officer(s) again to speak;
- (h) in accordance with Rule 34(5) of the Rules of Procedure, the President has decided that he will call upon the three Members to move their respective amendments in the order set out in paragraph (c) above. The President invites Hon James TO to move his amendment to the motion, and forthwith proposes and puts to vote the question on Hon James TO's amendment;
- (i) after Hon James TO's amendment has been voted upon, the President deals with the other two amendments; and
- (j) after all amendments have been dealt with, the President calls upon Hon Paul CHAN to reply. Thereafter, the President puts to vote the question on Hon Paul CHAN's motion, or his motion as amended, as the case may be.

3. For Members' ease of reference, the terms of the original motion and of the motion, if amended, are set out in the **Appendix**.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

(Translation)

**Motion debate on
“Enhancing the accountability of charities and
complying with the best practices in corporate governance”
to be held at the Council meeting of 16 May 2012**

1. Hon Paul CHAN’s original motion

That the Charities Sub-committee under the Law Reform Commission of Hong Kong is still collating public submissions after completing its public consultation on the consultation paper on charities in end October last year, and at present, except for those charities that are incorporated as companies limited by guarantee with the Company Registry whose financial statements are accessible by the public in the Company Registry, the public has no way to know about the governance and financial information of all other charities, such as those established by way of trust; moreover, currently, except for section 88 of the Inland Revenue Ordinance, in which ‘charitable purpose’ is defined for the purpose of taxation, there is no other legislation regulating charities and how they use the donations, nor does the Administration have the figures regarding charities established; over the past few years, some suspected cases of charities with strange fund-raising practices, unclear accounts, indiscriminate investments and even transfer of surpluses have been uncovered in society, making the public worry that donations to charities may not be serving charitable purposes; in this connection, this Council urges the Government to expeditiously release to the public the findings of the public consultation on the consultation paper on charities, and before statutory regulation is introduced, consider enhancing the transparency and accountability of charities by adopting measures such as encouraging them to comply with the best practices in corporate governance, strengthen their financial management, and disclose their financial information on a regular basis; at the same time, the Government should expeditiously implement the statutory regulatory proposals in the consultation paper on charities which are generally agreed by the community.

2. Motion as amended by Hon James TO

That, *as* the Charities Sub-committee under the Law Reform Commission of Hong Kong is still collating public submissions after completing its public consultation on the consultation paper on charities in end October last year, *many community organizations and members of the public have expressed*

worry that the activities of charities with different views may be restricted; and at present, except for those charities that are incorporated as companies limited by guarantee with the Company Registry whose financial statements are accessible by the public in the Company Registry, the public has no way to know about the governance and financial information of all other charities, such as those established by way of trust; moreover, currently, except for section 88 of the Inland Revenue Ordinance, in which ‘charitable purpose’ is defined for the purpose of taxation, there is no other legislation regulating charities and how they use the donations, nor does the Administration have the figures regarding charities established; over the past few years, some suspected cases of charities with strange fund-raising practices, unclear accounts, indiscriminate investments and even transfer of surpluses have been uncovered in society, making the public worry that donations to charities may not be serving charitable purposes; in this connection, this Council urges the Government to expeditiously release to the public the findings of the public consultation on the consultation paper on charities, and before statutory regulation is introduced, consider enhancing the transparency and accountability of charities by adopting measures such as encouraging them to comply with the best practices in corporate governance, strengthen their financial management, and disclose their financial information on a regular basis, *as well as maintain the autonomy of their organizations*; at the same time, the Government should expeditiously ~~implement~~ *carefully consider all* the statutory regulatory proposals in the consultation paper on charities ~~which are generally agreed by the community~~.

Note: Hon James TO’s amendment is marked in *bold and italic type* or with deletion line.

3. Motion as amended by Hon Alan LEONG

That, *given that* the Charities Sub-committee under the Law Reform Commission of Hong Kong is still collating public submissions after completing its public consultation on the consultation paper on charities in end October last year, and at present, except for those charities that are incorporated as companies limited by guarantee with the Company Registry whose financial statements are accessible by the public in the Company Registry, the public has no way to know about the governance and financial information of all other charities, such as those established by way of trust; moreover, currently, except for section 88 of the Inland Revenue Ordinance, in which ‘charitable purpose’ is defined for the purpose of taxation, there is no other legislation regulating charities and how they use the donations, nor does the Administration have the figures regarding charities established; over the past few years, some suspected cases of charities with strange fund-raising practices, unclear accounts, indiscriminate investments and even transfer of surpluses have been uncovered in society, making the public worry that donations to charities may not be

serving charitable purposes; in this connection, this Council urges the Government to expeditiously release to the public the findings of the public consultation on the consultation paper on charities, and ~~before statutory regulation is introduced, consider enhancing the transparency and accountability of charities by adopting measures such as encouraging them~~ ***encourage charities*** to comply with the best practices in corporate governance, strengthen their financial management, and disclose their financial information on a regular basis, ***so as to enhance their transparency and accountability***; at the same time, the Government should ~~expeditiously implement the statutory regulatory proposals in the consultation paper on charities which are generally agreed by the community~~ ***must ensure that human rights and advocacy of policies are included as charitable purposes, and should also ensure that charities can maintain autonomy and are free from any political interference.***

Note: Hon Alan LEONG's amendment is marked in ***bold and italic type*** or with deletion line.

4. Motion as amended by Hon CHEUNG Kwok-che

That the Charities Sub-committee under the Law Reform Commission of Hong Kong is still collating public submissions after completing its public consultation on the consultation paper on charities in end October last year, and at present, except for those charities that are incorporated as companies limited by guarantee with the Company Registry whose financial statements are accessible by the public in the Company Registry, the public has no way to know about the governance and financial information of all other charities, such as those established by way of trust; moreover, currently, except for section 88 of the Inland Revenue Ordinance, in which 'charitable purpose' is defined for the purpose of taxation, there is no other legislation regulating charities and how they use the donations, nor does the Administration have the figures regarding charities established; over the past few years, some suspected cases of charities with strange fund-raising practices, unclear accounts, indiscriminate investments and even transfer of surpluses have been uncovered in society, making the public worry that donations to charities may not be serving charitable purposes; ***besides, some people worry that the power of the charity commission mentioned in the consultation paper on charities is too great, which may lead to self-censorship on the part of charities dedicated to empowering the socially disadvantaged and charities which are concerned about such sensitive issues as human rights; at the same time, some social workers are concerned about a proposal in the consultation paper on charities that 'an activity to preserve an existing piece of legislation, where a charity opposes its being repealed or amended, would fall under "political activity"', not to be regarded as dedicated to a charitable purpose, and the proposal runs counter to clause 50 of the Code of Practice for Registered Social Workers,***

which provides that ‘Social workers recognise the need to advocate changes in the formulation of policies and legislation to improve social conditions, to promote social justice and general welfare of the society. Social workers also recognise the need to contribute to the implementation of policies for human welfare’; they consider that the proposal will make social workers of charities act against professional ethics, and render organizations within the definition of ‘charity’ unable to employ professional social workers any more; in this connection, this Council urges the Government to:

- (a) expeditiously release to the public the findings of the public consultation on the consultation paper on charities, ~~and;~~
- (b) before statutory regulation is introduced, *first* consider enhancing the transparency and accountability of charities by adopting measures such as encouraging them to comply with the best practices in corporate governance, strengthen their financial management, and disclose their financial information on a regular basis; ~~at the same time, the Government should~~
- (c) *motivate the public to continue to hold discussions on monitoring charities and their fund-raising practices, and listen to the views of the public and stakeholders; and*
- (d) expeditiously implement the statutory regulatory proposals in the consultation paper on charities which are generally agreed by the community, *and prudently handle the controversial items in the paper, so as to ensure that while undesirable fund-raising practices are effectively monitored, charities dedicated to empowering the socially disadvantaged and charities which are concerned about such sensitive issues as human rights will not be subject to political vetting.*

Note: Hon CHEUNG Kwok-che’s amendment is marked in *bold and italic type* or with deletion line.