

立法會  
*Legislative Council*

LC Paper No. CB(2) 442/11-12

Ref : CB2/H/5/11

**House Committee of the Legislative Council**

**Minutes of the 6th meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 25 November 2011**

**Members present:**

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)  
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)  
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 Timothy FOK Tsun-ting, GBS, JP  
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, GBS, 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  
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 Priscilla LEUNG Mei-fun, JP  
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 Alan LEONG Kah-kit, SC  
Hon Tanya CHAN  
Hon Albert CHAN Wai-yip  
Hon WONG Yuk-man

**Members absent:**

Hon Albert HO Chun-yan  
Hon Andrew CHENG Kar-foo  
Dr Hon LEUNG Ka-lau  
Hon Paul TSE Wai-chun, JP  
Dr Hon Samson TAM Wai-ho, JP  
Hon LEUNG Kwok-hung

**Clerk in attendance :**

Mrs Sharon TONG                      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
Mr Stephen LAM	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Ms Miranda HON	Chief Council Secretary (4)2
Miss Carrie WONG	Assistant Legal Adviser 4
Miss Evelyn LEE	Assistant Legal Adviser 10
Miss Josephine SO	Senior Council Secretary (2)7
Ms Judy TING	Council Secretary (2)6
Ms Theresa CHEUNG	Senior Legislative Assistant (2)2
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 5th meeting held on 18 November 2011**

*(LC Paper No. CB(2) 373/11-12)*

The minutes were confirmed.

**II. Matters arising**

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

2. The 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)**

**General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011**

*(LC Paper No. LS 8/11-12)*

3. The Chairman said that the Bill sought to amend the General Holidays Ordinance and the Employment Ordinance to change the day

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that was to be substituted as a general holiday and statutory holiday where any of the first three days of a Lunar New Year, or the day following the Chinese Mid-Autumn Festival, fell on a Sunday. The Panel on Manpower had been consulted on the legislative proposal at its meeting on 17 March 2011. Panel members in general welcomed the proposal but expressed concern about its scope.

4. Members did not raise objection to the resumption of the Second Reading debate on the Bill.

**(b) Legal Service Division report on subsidiary legislation gazetted on 18 November 2011 and tabled in Council on 23 November 2011**

*(LC Paper No. LS 7/11-12)*

5. The Chairman said that a total of 10 items of subsidiary legislation, including three Commencement Notices, were gazetted on 18 November 2011 and tabled in the Council on 23 November 2011.

6. Regarding the three Orders made under the Inland Revenue Ordinance (Cap. 112), the Chairman said that they were to give effect to the comprehensive agreements for avoidance of double taxation signed between the Government of the Hong Kong Special Administrative Region and the Government of the Portuguese Republic, the Kingdom of Spain and the Czech Republic respectively. The Orders would come into operation on 12 January 2012. The Legal Service Division was still scrutinizing the legal and drafting aspects of the Orders and a further report would be provided if necessary.

7. Mr James TO considered it necessary to form a subcommittee to study the three Orders in detail. Members agreed. The following Members agreed to join the subcommittee: Mr James TO, Ms Audrey EU and Mr Paul CHAN.

8. Regarding the Hong Kong Air Navigation (Fees) (Amendment) Regulation 2011 and the Civil Aviation (Aircraft Noise) (Certification) (Amendment) Regulation 2011 ("the Amendment Regulations"), the Chairman highlighted that they were to amend the prescribed fees and charges that related to civil aviation under the principal Regulations to achieve full cost recovery of providing the services. The Panel on Economic Development had been consulted on the fee proposals and members were supportive of the proposals. The Amendment Regulations would come into operation on 13 January 2012.

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9. Mr LEE Wing-tat considered it necessary to form a subcommittee to study the two Amendment Regulations in detail. Members agreed. Mr LEE Wing-tat agreed to join the subcommittee.

10. The Chairman said that the 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.

11. As regards the Legislation Publication Ordinance (Commencement) Notice 2011 ("the Commencement Notice"), the Chairman said that it sought to appoint 16 January 2012 as the day on which Part 6 (except section 22), section 30 and Division 6 of Part 7 of the Ordinance would come into operation.

12. Dr Margaret NG enquired about the details of the provisions that would come into operation on 16 January 2012. She recalled that in the course of scrutinizing the Legislation Publication Bill, the Administration had assured the Bills Committee that it would not seek to commence certain provisions before it had consulted the relevant Legislative Council ("LegCo") Panel and stakeholders.

13. At the invitation of the Chairman, Legal Adviser said that the Administration had not provided any LegCo Brief on the Commencement Notice. In view of the concern raised by Dr Margaret NG, he suggested that the Administration should be requested to provide information to explain the provisions to be commenced in relation to other uncommenced provisions of the Ordinance and their commencement arrangements. Members agreed.

14. Members did not raise any queries on the other four items of subsidiary legislation.

15. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 21 December 2011, or 11 January 2012 if extended by resolution.

**IV. Further business for the Council meeting of 30 November 2011**

**(a) Tabling of papers**

**Report No. 4/11-12 of the House Committee on Consideration of  
Subsidiary Legislation and Other Instruments**

*(LC Paper No. CB(2) 375/11-12 issued vide LC Paper No. CB(3)  
165/11-12 dated 24 November 2011)*

16. The Chairman said that the Report covered two items of subsidiary legislation, including the Securities and Futures (Professional Investor) (Amendment) Rules 2011 ("the Rules"), the period for amendment of which would expire on 30 November 2011. Upon the expiry of the deadline, a Member had indicated intention to speak on the Rules at the Council meeting of 30 November 2011. As Mr KAM Nai-wai had given notice to move a motion to amend the Rules, should approval be given by the President for the moving of the motion, Members would have the opportunity to speak on the Rules, in which case she would not move a motion in her capacity as Chairman of the House Committee to take note of the Report in relation to the Rules.

17. In response to Mr James TO, the Chairman said that as the President had yet to rule on Mr KAM Nai-wai's motion, she would also give notice to move a motion at the Council meeting to take note of the Report. Should the President's approval not be given for the moving of Mr KAM's motion, Members could still speak on the Rules when a motion was moved by her to take note of the Report in relation to the Rules.

18. Members noted the Report and the above arrangement.

(b) **Questions**  
*(LC Paper No. CB(3) 162/11-12)*

19. The Chairman said that Mr Paul TSE had replaced his oral question.

**V. Business for the Council meeting of 7 December 2011**

(a) **Questions**  
*(LC Paper No. CB(3) 161/11-12)*

20. 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**

**Buildings Legislation (Amendment) Bill 2011**

21. The Chairman said that the Administration had given notice to present the above Bill to the Council on 7 December 2011. The Bill sought, inter alia, to make provision for the Building Authority to apply to the court for warrants to enter into individual premises for inspection and enforcement actions. The House Committee would consider the Bill at its meeting on 9 December 2011.

22. In response to Ms Cyd HO's enquiry on whether there was any vacant Bills Committee slot, the Chairman said that the position on Bills Committees would be reported under agenda item VII below.

(c) **Government motion**

23. The Chairman said that no notice had been received yet.

(d) **Members' motion**

**Motion on "Reforming governance philosophy, resolving deep-rooted conflicts in society and alleviating the disparity between the rich and the poor"**

*(Wording of the motion issued vide LC Paper No. CB(3) 166/11-12 dated 24 November 2011.)*

24. The Chairman said that the above motion would be moved by Mr Frederick FUNG and the wording of the motion had been issued to Members.

25. The Chairman further said that only one motion debate had been scheduled for the Council meeting, as Mr Ronny TONG had given up the slot allocated to him for moving a motion debate at the Council meeting and other Members concerned who had subsequently been allocated the debate slot vacated by Mr TONG had also decided to give up the slot.

26. In response to Mr Ronny TONG, the Chairman said that a Member who had given up his debate slot but wished to move a motion for debate at another Council meeting could make fresh applications to the Secretariat.

27. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motion was Wednesday, 30 November 2011.

Report on study of subsidiary legislation

28. The Chairman invited Members to note the list containing two items of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 7 December 2011. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 29 November 2011.

**VI. Report of Bills Committees and subcommittees**

**(a) Report of the Bills Committee on Pyramid Schemes Prohibition Bill**

*(LC Paper No. CB(1) 425/11-12)*

29. Mr Fred LI, Chairman of the Bills Committee, reported that the Bills Committee had held four meetings and had received views from relevant trades and professional organizations. He referred Members to the Bills Committee's report for details of its deliberations.

30. Mr Fred LI elaborated that the Bills Committee generally supported the Bill with a view to plugging loopholes in the existing Ordinance in combating pyramid schemes. The concerns raised by members in the course of scrutiny included assisting the public to differentiate between legitimate multi-level marketing schemes and illicit pyramid schemes; the offence of participating in a pyramid scheme, including whether innocent participants would be caught by the law and the liability of directors and partners; and enhancing education and publicity to prevent members of the public from being caught inadvertently.

31. Mr Fred LI further reported that in response to members' suggestions, the Administration had agreed to propose Committee Stage amendments ("CSAs") to improve the drafting of the relevant provisions. The Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 7 December 2011.

32. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 28 November 2011.



**(b) Report of the Bills Committee on Inland Revenue (Amendment)  
(No. 2) Bill 2011**  

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*(LC Paper No. CB(1) 432/11-12)*

33. Mr Paul CHAN, Chairman of the Bills Committee, said that the main object of the Bill was to implement the proposal made in the 2010-2011 Budget to extend the profits tax deduction to cover capital expenditure for purchase of registered trade marks, copyrights and registered designs.

34. Mr Paul CHAN reported that the Bills Committee had held seven meetings and had invited views from the public including relevant trades and professional organizations. The major issues deliberated by the Bills Committee included the scope of specified intellectual property rights ("IPRs") covered by the proposed tax deduction; conditions for the proposed tax deduction; power of the Commissioner of Inland Revenue to determine true market value of IPRs; the scope and application of the proposed anti-avoidance provisions; and tax deduction arrangements for IPRs in cross-border activities.

35. Mr Paul CHAN further reported that members were particularly concerned about the tax deduction arrangements for IPRs in cross-border activities. At the Bills Committee's request, the Administration had summarized in writing the possible scenarios and set out the relevant tax deduction arrangements. The Administration had highlighted that given the unique territorial nature of the registration system and protection of the IPRs covered in the Bill, the tax deduction proposed by the Bill was applicable to IPRs used by Hong Kong companies in cross-border activities. The Administration had agreed to set out the relevant tax deduction arrangements in the Departmental Interpretation and Practice Notes of the Inland Revenue Department.

36. Mr Paul CHAN added said that the Administration would propose certain technical and drafting amendments to the Bill. The Bills Committee agreed to the Administration's proposed amendments and supported the resumption of the Second Reading debate on the Bill at the Council meeting of 7 December 2011.

37. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 28 November 2011.

**VII. Position on Bills Committees and subcommittees**

*(LC Paper No. CB(2) 374/11-12)*

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

39. The Chairman further said that as there were two vacant slots after two Bills Committees had reported under agenda item VI above, the Bills Committee on Road Traffic (Amendment) (No. 2) Bill 2011 and the Bills Committee on The Hong Kong Polytechnic University (Amendment) Bill 2011 on the waiting list could commence work. One Bills Committee, i.e. the Fisheries Protection (Amendment) Bill 2011, and one subcommittee on policy issues were still on the waiting list.

**VIII. Report on the duty visit to London of the United Kingdom by the delegation of the Public Accounts Committee ("PAC")**

*(LC Paper No. PAC 14/11-12)*

40. Dr Philip WONG, Chairman of PAC and Leader of the delegation, said that a delegation of PAC had conducted a duty visit to London of the United Kingdom ("UK") from 20 to 25 March 2011. He referred Members to the report of the delegation for details of the duty visit.

41. Dr Philip WONG said that the delegation considered the visit very rewarding. It had enabled members to gain an in-depth understanding of the mechanism, operation, practices and procedures of the Committee of Public Accounts of the House of Commons ("Commons PAC") of the UK Parliament. Members would certainly make reference to the practices and experience of the Commons PAC in studying how the LegCo PAC's practices and procedures could be enhanced to help ensure that the best value for money was realized in the delivery of public services.

**IX. Any other business**

42. The Chairman reminded Members that a fire drill would be held immediately after the meeting. On hearing the fire alarm, Members should follow the broadcasted instructions to leave the Conference Room, use the nearest staircase and exit to leave the LegCo Complex and assemble at the LegCo Square. Security guards would assist Members along the evacuation routes.

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43. There being no other business, the meeting ended at 2:53 pm.

Council Business Division 2  
Legislative Council Secretariat  
30 November 2011