

立法會  
*Legislative Council*

LC Paper No. CB(2) 579/11-12

Ref : CB2/H/5/11

**House Committee of the Legislative Council**

**Minutes of the 8th meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 9 December 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  
Hon LAU Kong-wah, JP  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon LI Fung-ying, SBS, JP  
Hon Tommy CHEUNG Yu-yan, 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 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  
Hon CHAN Hak-kan  
Hon Paul CHAN Mo-po, MH, JP  
Hon CHAN Kin-por, JP  
Dr Hon Priscilla LEUNG Mei-fun, JP  
Dr Hon LEUNG Ka-lau  
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, JP  
Dr Hon Samson TAM Wai-ho, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Tanya CHAN  
Hon Albert CHAN Wai-yip  
Hon WONG Yuk-man

**Members absent:**

Hon Albert HO Chun-yan  
Dr Hon Philip WONG Yu-hong, GBS  
Hon WONG Yung-kan, SBS, JP  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon Andrew CHENG Kar-foo  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Dr Hon LAM Tai-fai, BBS, JP

**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
Mr Stephen LAM	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Mr Bonny LOO	Assistant Legal Adviser 3
Miss Carrie WONG	Assistant Legal Adviser 4
Miss Winnie LO	Assistant Legal Adviser 7
Miss Josephine SO	Senior Council Secretary (2)7
Ms Judy TING	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

Action

---

**I. Confirmation of the minutes of the 7th meeting held on 2 December 2011**

*(LC Paper No. CB(2) 492/11-12)*

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)**

**Buildings Legislation (Amendment) Bill 2011**

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

3. The Chairman said that the Bill sought to introduce five new measures to further enhance building safety, including application to the

Action

Court for warrants authorizing entry into premises for inspection. The Bills Committee on Buildings (Amendment) Bill 2010 had discussed the proposed measures and members had expressed divergent views over some of them.

4. Miss Tanya CHAN considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Ir Dr Raymond HO, Mr James TO, Ms Miriam LAU, Mr Abraham SHEK (as advised by Ir Dr Raymond HO), Ms Audrey EU, Prof Patrick LAU (as advised by Ir Dr Raymond HO) and Miss Tanya CHAN.

5. The Chairman said that the Bills Committee would be placed on the waiting list.

**(b) Legal Service Division report on subsidiary legislation gazetted on 2 December 2011 and tabled in Council on 7 December 2011**  
*(LC Paper No. LS 13/11-12)*

6. The Chairman said that a total of three items of subsidiary legislation were gazetted on 2 December 2011 and tabled in the Council on 7 December 2011.

7. Regarding the Frontier Closed Area (Amendment) Order 2011 (L.N. 170), the Chairman said that it was to substitute a new Schedule to the Frontier Closed Area Order (Cap. 245 sub. leg. A) to specify the reduced boundaries of the Frontier Closed Area ("FCA") after completion of the construction works for the Mai Po to Lok Ma Chau Boundary Control Point section and the Lin Ma Hang to Sha Tau Kok section. L.N. 170 would come into operation on 15 February 2012.

8. Mr James TO expressed concern about the legislative effect of the coordinates of the reduced FCA as set out in the new Schedule. He considered it necessary to form a subcommittee to study L.N. 170 in detail. Members agreed. The following Members agreed to join the subcommittee: Mr James TO, Mr LAU Kong-wah, Ms Audrey EU and Ms Cyd HO.

9. Regarding the Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No. 2) Order 2011 (L.N. 171), the Chairman said that it sought to amend the scales of amounts of mandatory provident fund contributions required to be made by casual employees who were members of industry schemes and their employers.

Action

10. Mr Tommy CHEUNG considered it necessary to form a subcommittee to study L.N. 171 in detail. Members agreed. The following Members agreed to join the subcommittee: Mr Tommy CHEUNG and Mr Alan LEONG (as advised by Ms Audrey EU).

11. 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.

12. As the deadline for amending L.N. 170 and L.N. 171 was 21 December 2011, the Chairman proposed to move motions in her capacity as Chairman of the House Committee at the Council meeting of 14 December 2011 to extend their scrutiny period to 1 February 2012. Members agreed.

13. Members did not raise any queries on the other item of subsidiary legislation, i.e. Antiquities and Monuments (Declaration of Historical Buildings) (No. 2) Notice 2011 (L.N. 172).

#### **IV. Further business for the Council meeting of 14 December 2011**

##### **(a) Tabling of papers**

**Report No. 6/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments**  
*(LC Paper No. CB(2) 494/11-12 issued vide LC Paper No. CB(3) 223/11-12 dated 8 December 2011)*

14. The Chairman said that the Report only covered one item of subsidiary legislation the period for amendment of which would expire on 14 December 2011, i.e. the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011 ("Amendment Notice"). Upon the expiry of the deadline, two Members had indicated intention to speak on the Amendment Notice at the Council meeting of 14 December 2011. As Mr James TO had given notice to move a motion to repeal the Amendment Notice, should approval be given by the President for the moving of the motion, Members would have the opportunity to speak on the Amendment Notice, 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 Amendment Notice.

15. Members noted the Report and the above arrangement.

16. Mr James TO, Chairman of the Subcommittee on the Amendment Notice, said that the Subcommittee had held a further meeting on 6 December 2011 after he had made a verbal report at the last House Committee meeting. At that meeting, the Subcommittee decided, by a vote of two to one, to revoke its earlier decision for him to move a motion on behalf of the Subcommittee to repeal the Amendment Notice at the Council meeting of 14 December 2011. As such, he would not move a motion in his capacity as Chairman of the Subcommittee to repeal the Amendment Notice. He would instead move a motion in his individual capacity to repeal the Amendment Notice. He referred Members to the Subcommittee's written report for details of its deliberations and the latest developments.

(b) **Questions**

*(LC Paper No. CB(3) 212/11-12)*

17. The Chairman said that Mr WONG Kwok-hing, Mr Fred LI and Mr Albert HO had replaced their oral questions.

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

**Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011**

18. The Chairman said that the Administration had given notice to present the above Bill to the Council on 14 December 2011. The Bill sought, inter alia, to set up a regulatory regime for Mandatory Provident Fund intermediaries. The House Committee would consider the Bill at its meeting on 16 December 2011.

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

**Road Traffic (Amendment) Bill 2011**

19. The Chairman said that the relevant Bills Committee had reported to the House Committee at the last meeting, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(e) **Members' motions**

**Proposed resolution to be moved by Hon James TO under section 34(4) of the Interpretation and General Clauses Ordinance relating to the:**

- (i) **Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Portuguese Republic) Order;**
- (ii) **Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Kingdom of Spain) Order; and**
- (iii) **Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Czech Republic) Order**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 221/11-12 dated 7 December 2011.)*

20. The Chairman said that Mr James TO, Chairman of the relevant Subcommittee, would move a motion at the Council meeting to extend the scrutiny period of the three Orders to 11 January 2012.

**V. Business for the Council meeting of 21 December 2011**

(a) **Questions**

*(LC Paper No. CB(3) 211/11-12)*

21. 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**

**Banking (Amendment) Bill 2011**

22. The Chairman said that the Administration had given notice to present the above Bill to the Council on 21 December 2011. The House Committee would consider the Bill at its meeting on 6 January 2012.

(c) **Government motion**

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

(d) **Members' motions**

(i) **Motion on “Expediently regulating the investment and over-the-counter trading activities of Loco London gold”**

*(Wording of the motion issued vide LC Paper No. CB(3) 218/11-12 dated 8 December 2011.)*

(ii) **Motion on “Improving the voter registration system to rebuild people’s confidence in the electoral system”**

*(Wording of the motion issued vide LC Paper No. CB(3) 219/11-12 dated 8 December 2011.)*

24. The Chairman said that the above motions would be moved by Mr WONG Kwok-hing and Mr KAM Nai-wai respectively and the wording of the motions had been issued to Members.

25. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 14 December 2011.

Report on study of subsidiary legislation

26. The Chairman invited Members to note the list containing 13 items of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 21 December 2011. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 13 December 2011.

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

(a) **Report of the Bills Committee on Enduring Powers of Attorney (Amendment) Bill 2011**

*(LC Paper No. CB(2) 501/11-12)*

27. Dr Margaret NG, Chairman of the Bills Committee, reported on the deliberations of the Bills Committee. She explained that an enduring power of attorney ("EPA") was a special type of power of attorney which survived beyond the onset of the donor's mental incapacity. Under the existing legislation, an EPA must be signed by the donor before a solicitor and a registered medical practitioner who must both be present at the same time. The object of the Bill was to relax the existing requirement by allowing a donor and a solicitor to sign an EPA within 28 days after



Action

the EPA had been signed before a registered medical practitioner, and to improve the drafting of the new statutory forms in plainer language with a view to promoting wider use of EPAs.

28. Dr Margaret NG further reported that the Bills Committee had held four meetings with the Administration. The major issues deliberated by the Bills Committee included the medical certification requirement; the proposed 28-day time limit between medical certification by a registered medical practitioner and the signing of an EPA by the solicitor and the donor; commencement of EPAs; whether a defective EPA could take effect as an ordinary power of attorney; and appointment of joint and several attorneys. In response to members' suggestions, the Administration agreed to move Committee Stage amendments ("CSAs") to expressly provide that an EPA did not take effect as an ordinary power of attorney before it was executed and to clarify the legal consequences of the failure on the part of the donor to comply with the requirements specified in the EPA forms, with a view to safeguarding the interests of donors. She added that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 21 December 2011 and the CSAs to be moved by the Administration.

29. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 12 December 2011.

**(b) Report of the Subcommittee on Building (Inspection and Repair) Regulation, Building (Administration) (Amendment) Regulation 2011, Building (Minor Works) (Amendment) Regulation 2011, and Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011**

---

30. Ms Audrey EU, Chairman of the Subcommittee, made a verbal report on the deliberations of the Subcommittee. She said that the four items of subsidiary legislation sought to provide for the implementation of the Mandatory Building Inspection Scheme and the Mandatory Window Inspection Scheme ("the two Schemes"). The Subcommittee had held six meetings and had completed the clause-by-clause examination of the subsidiary legislation. As the Administration had yet to provide its response to issues raised by members at two of the meetings, the Subcommittee had decided to hold another meeting on 12 December 2011 to discuss the Administration's response. The Subcommittee would provide a written report after completing its work.

Action

31. Ms Audrey EU further reported that the Subcommittee supported in principle the two Schemes to safeguard building safety. In the course of deliberation, members had discussed issues relating to the criteria for targeting buildings for mandatory inspection under the two Schemes; the prescribed inspection fees; supply and performance of registered inspectors and the relevant complaints mechanism; and provision of support to building owners to comply with the requirements under the two Schemes.

32. Ms Audrey EU added that as the deadline for amending the four items of subsidiary legislation had been extended by resolution to 21 December 2011, the deadline for giving notice of amendments, if any, was 14 December 2011.

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

*(LC Paper No. CB(2) 493/11-12)*

33. The Chairman said that there were 15 Bills Committees, 10 subcommittees under the House Committee (i.e. five subcommittees on subsidiary legislation, two subcommittees on policy issues and three subcommittees on other Council business) and eight subcommittees under Panels in action.

34. The Chairman further said that as there was one vacant slot after a Bills Committee had reported under agenda item VI(a) above, the Bills Committee on Mediation Bill on the waiting list could commence work. One Bills Committee, i.e. the Bills Committee on Buildings Legislation (Amendment) Bill 2011, and one subcommittee on policy issues were on the waiting list.

35. There being no other business, the meeting ended at 2:50 pm.