

立法會
Legislative Council

LC Paper No. CB(2) 910/11-12

Ref : CB2/H/5/11

House Committee of the Legislative Council

**Minutes of the 11th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 13 January 2012**

Members present:

Hon Miriam LAU Kin-ye, GBS, JP (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 CHEUNG Man-kwong
Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, 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
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 Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP

Dr Hon Priscilla LEUNG Mei-fun, JP
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yea, GBS, JP
Dr Hon PAN Pey-chyou
Hon LEUNG Kwok-hung
Hon Tanya CHAN
Hon Albert CHAN Wai-yip

Members absent:

Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon LI Fung-ying, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon Paul CHAN Mo-po, MH, JP
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Hon Paul TSE Wai-chun, JP
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC
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
Mr Stephen LAM	Principal Council Secretary (Complaints)
Mrs Sharon TONG	Principal Council Secretary (2)
Mr Simon WONG	Chief Public Information Officer
Miss Betty MA	Chief Council Secretary (2)4
Ms Amy YU	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Mr Bonny LOO	Assistant Legal Adviser 3
Ms Clara TAM	Assistant Legal Adviser 9
Mr Raymond LAM	Senior Council Secretary (2)2
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 10th meeting held on 6 January 2012

(LC Paper No. CB(2) 782/11-12)

The minutes were confirmed.

II. Matters arising

Report by the Chairman on her meeting with the Chief Secretary for Administration ("CS")

CS' attendance at a special House Committee meeting

2. The Chairman said that she had reiterated to CS Members' request for his attendance at a special House Committee meeting to brief Members on the latest progress of the follow-up work to the fire in Fa Yuen Street undertaken by the inter-departmental working group chaired by him. CS had advised that the Food and Health Bureau was conducting consultation on enforcement issues relating to the management of fixed hawker pitches. The Administration's intention was to report to the Legislative Council ("LegCo") after completion of preparation work for medium and long term measures. She had pointed out that Members' present concern was about measures adopted to

Action

address the immediate problems relating to the fire. Members' original intention was to form a subcommittee to follow up the matter. After discussion, Members agreed that CS should be invited to attend a special meeting of the House Committee to brief them on the Administration's follow-up work.

3. The Chairman further said that she had requested CS to decide on the proposed date for attending a special House Committee meeting as soon as possible. CS had undertaken to revert to Members on how and the way to report progress on the matter as soon as practicable.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 6 January 2012 and tabled in Council on 11 January 2012

(LC Paper No. LS 22/11-12)

4. The Chairman said that a total of two items of subsidiary legislation, i.e. the Road Traffic (Impairment Test) Notice (L.N. 1) and the Road Traffic (Amendment) Ordinance 2011 (Commencement) Notice 2012 (L.N. 2), were gazetted on 6 January and tabled in the Council on 11 January 2012. The two items of subsidiary legislation provided for the implementation of the proposals in the Road Traffic (Amendment) Ordinance ("RT(A)O") and the commencement of the RT(A)O. L.N. 1 sought to specify five tests to be carried out for the purpose of assisting a police officer to form an opinion as to whether or not a person's ability to drive properly was impaired by the consumption or use of drugs. L.N. 2 was to appoint 15 March 2012 as the day on which RT(A)O (except the new section 39N of the Road Traffic Ordinance (Cap. 374) which empowered a police officer to require a driver to undergo a Rapid Oral Fluid Test) came into operation. The Legal Service Division was making certain enquiries with the Administration in relation to L.N. 1 and would provide a further report if necessary.

5. Mr IP Kwok-him considered it necessary to form a subcommittee to study these two items of subsidiary legislation in detail. Members agreed. The following Members agreed to join the subcommittee: Ms Miriam LAU, Mr Andrew CHENG, Mr IP Kwok-him and Miss Tanya CHAN.

6. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 8 February, or 29 February 2012 if extended by resolution.

IV. Further business for the Council meeting of 18 January 2012

(a) Tabling of papers

Report No. 9/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2) 784/11-12 issued vide LC Paper No. CB(3) 317/11-12 dated 11 January 2012)

7. The Chairman said that the Report covered one item of subsidiary legislation, i.e. the Country Parks and Special Areas (Amendment) Regulation 2011 (L.N. 176), the period for amendment of which would expire on 18 January 2012. No Member had indicated intention to speak on the subsidiary legislation.

8. Members noted the Report.

(b) Questions

(LC Paper No. CB(3) 314/11-12)

9. The Chairman said that Mr Paul TSE and Mr KAM Nai-wai had replaced their oral questions.

V. Business for the Council meeting of 1 February 2012

(a) Questions

10. The Chairman reminded Members that the cut-off date for registration of written questions to be raised at the Council meeting was 12:00 midnight on Friday, 13 January 2012.

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

The Administration has advised the Clerk to the Legislative Council that the Financial Secretary intends to present to the Council at the meeting:

(i) the Appropriation Bill 2012; and

(ii) the Estimates of Expenditure for the year ending 31 March 2013

11. The Chairman said that the Financial Secretary would deliver his Budget speech.

VI. Report of Bills Committees and subcommittees

(a) **Report of the Bills Committee on Adaptation of Laws (Military References) Bill 2010**

(LC Paper No. CB(2) 787/11-12)

12. Mr IP Kwok-him, Chairman of the Bills Committee, reported that the Bill sought to adapt certain military references in, and other related provisions of, the laws of Hong Kong. The adaptation proposals in the Bill involved 85 pieces of legislation covering different policy areas. He referred Members to the Bills Committee's report for details of its deliberations.

13. Mr IP Kwok-him elaborated that some members were very concerned that the Bill might cover other amendments involving policy changes. The Bills Committee had agreed that the Bill should cover only adaptation proposals. Should members consider any proposal beyond the scope of adaptation of laws in the scrutiny process, the Administration should delete such proposal from the Bill by way of Committee Stage amendments ("CSAs").

14. Mr IP Kwok-him reported that the Bills Committee had examined in detail the provisions to be amended by the adaptation proposals, and had made reference to the interpretative principles as set out in the Interpretation and General Clauses Ordinance (Cap. 1) relating to the rights, exemptions and obligations of military forces stationed in Hong Kong by the United Kingdom, and references to "Her Majesty", "the Crown", "the British Government" and "the Secretary of State"; the guiding principles for the Administration's adaptation of laws programmes; as well as the Garrison Law of the Hong Kong Special Administrative Region of the People's Republic of China.

15. Mr IP Kwok-him further reported that in response to the views and concerns of the Bills Committee, the Administration had agreed to move CSAs to delete the definitions of certain terms and adapt the reference to "Secretary of State" ("國務大臣" / "工貿大臣" in the Chinese text) as "Central People's Government". Members agreed to these CSAs. He added that the Bills Committee raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 8 February 2012.

Action

16. Dr Margaret NG said that she was a member of the Bills Committee. During the scrutiny of the Bill, she had queried the approach taken by the Administration in the current adaptation exercise. She expressed concern that relevant references in certain Ordinances were not adapted and considered it necessary for the Administration to examine each and every piece of the legislation concerned to ensure consistency in the adaptation of references. She expressed objection to the Bill.

17. The Chairman suggested that issues relating to adaptation of laws should be followed up by the Panel on Administration of Justice and Legal Services ("AJLS Panel").

18. Dr Margaret NG said that the AJLS Panel discussed general issues concerning adaptation of laws while adaptation of military references was within the purview of the Panel on Security. She raised the matter at the House Committee meeting in order to draw to Members' attention that the Bill involved not only technical adaptation amendments but also matters of principles with significant bearing on the legislative work in Hong Kong. She appealed to Members to participate in the Second Reading debate on the Bill.

19. Mr IP Kwok-him said that the Bills Committee had taken note of and discussed the views raised by Dr Margaret NG. It had spent considerable time to discuss the scope of adaptation in the Bill and had agreed that proposals which were beyond the scope of the current adaptation of laws exercise should be dealt with by separate legislative amendments. The Administration had explained to the Bills Committee that it had not proposed to adapt certain references as they fell outside the scope of the current exercise.

20. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 30 January 2012.

(b) Report of the Subcommittee on Frontier Closed Area (Amendment) Order 2011
(LC Paper No. CB(2) 786/11-12)

21. Mr CHAN Kam-lam, member of the Subcommittee, reported on the deliberations of the Subcommittee on behalf of Mr LAU Kong-wah, Chairman of the Subcommittee, who was not able to attend the meeting. Mr CHAN reported that the Subcommittee had held one meeting with the Administration and had completed scrutiny of the Order. He referred Members to the report of the Subcommittee for details of its deliberations.

Action

22. Mr CHAN Kam-lam elaborated that the Order sought to specify the reduced boundaries of the Frontier Closed Area after completion of the construction works for the Mai Po to Lok Ma Chau Control Point Section and the Lin Ma Hang to Sha Tau Kok section. Having considered the Subcommittee's views, the Administration had agreed to take on board the suggestion of the legal adviser to the Subcommittee to amend the Order to the effect that the information on the system of coordinates used in the Schedule as specified in Note 1 at the end of the Table would be placed in the main text of the Schedule, so as to ensure that the public could easily understand the meaning of the coordinates. The Administration would move a motion to amend the Order at the Council meeting of 1 February 2012. The Subcommittee supported the Order and the Administration's proposed amendment.

23. The Chairman reminded Members that as the deadline for amending the Order was 1 February 2012, the deadline for giving notice of amendments, if any, was Saturday, 21 January 2012.

(c) **Report of the Subcommittee on Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No. 2) Order 2011**

(LC Paper No. CB(1) 818/11-12)

24. Mr WONG Ting-kwong, Chairman of the Subcommittee, reported that the Subcommittee had held one meeting and had completed its scrutiny work. Members noted that the amendments in the Order were consequential to the adjustment of the maximum level of relevant income ("Max RI") in Schedule 3 to the Mandatory Provident Fund Schemes Ordinance (Cap. 485). The Mandatory Provident Fund Schemes Authority was required to make technical consequential amendments to the Mandatory Provident Fund Schemes (Contributions for Casual Employees) Order (Cap. 485 sub. leg. E) based on the approved adjusted daily Max RI of \$830. The Administration and the Subcommittee would not propose any amendments. He referred Members to the Subcommittee's report for details of its deliberations.

25. The Chairman reminded Members that as the deadline for amending the Amendment (No. 2) Order was 1 February 2012, the deadline for giving notice of amendments, if any, was 21 January 2012.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 783/11-12)

26. The Chairman said that there were 15 Bills Committees, seven subcommittees under House Committee (i.e. two subcommittees on subsidiary legislation, two subcommittees on policy issues and three subcommittees on other Council business) and eight subcommittees under Panels in action. One Bills Committee and one subcommittee on policy issues were on the waiting list.

27. 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 Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011 on the waiting list could commence work.

28. The Chairman invited Members to note that the following two Bills Committees would have to work beyond three months since commencement of their work -

- (a) Bills Committee on Immigration (Amendment) Bill 2011;
and
- (b) Bills Committee on Protection of Wages on Insolvency (Amendment) Bill 2011.

VIII. Report of the delegation of the Panel on Manpower on its duty visit to study the experience in the implementation of standard working hours in the Republic of Korea and priority allocation of a debate slot to the Chairman of the Panel on Manpower

(LC Paper No. CB(2) 791/11-12)

29. At the invitation of the Chairman, Mr LEE Cheuk-yan, Chairman of the Panel on Manpower ("the Panel") and leader of the delegation, said that the delegation of the Panel conducted a duty visit from 24 to 28 July 2011 to study the experience in the implementation of standard working hours in the Republic of Korea. The delegation submitted its Report to the Panel at its meeting on 15 December 2011. As Panel members had expressed different views on the delegation's two recommendations in the Report, the recommendations were put to vote and endorsed by the Panel.

30. Mr LEE Cheuk-yan invited Members to -

- (a) note the Report in Appendix I to the paper;

Action

- (b) note the recommendation in the Report that, where appropriate, consideration be given to inviting representatives of the Administration to accompany committees of LegCo in future overseas duty visits; and
- (c) consider the Panel's request for the priority allocation of a debate slot under rule 14A(h) of the House Rules ("HR") to the Panel Chairman for moving a motion for debate on the Report at the Council meeting of 8 February 2012. The wording of the motion as agreed by the Panel was in Appendix II to the paper.

31. Mr LEE Cheuk-yan further said that the Panel also proposed that should the House Committee accede to its request for priority allocation of a debate slot, there should only be one other motion debate without legislative effect at the Council meeting concerned. He appealed to Members to support the Panel's request.

32. The Chairman invited Members' views on the Panel's request for priority allocation of a debate slot.

33. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") had reservation about the Panel's request as it would affect other Members' chance of being allocated with a debate slot at the Council meeting concerned. He queried whether a slot should be allocated for debate on each and every overseas duty visit report conducted by committees. Given that members who had participated in the duty visit had a better understanding of the issues in the Report, Members belonging to DAB considered it more appropriate to discuss the Report at a Panel meeting instead of at a Council meeting.

34. Dr Margaret NG expressed support for the Panel's request as standard working hours was a subject of common concern among Members belonging to different political parties and groupings. Given the controversial nature of the subject, she considered relevant overseas experience worth studying. She added that overseas duty visits did not take place frequently and the Panel's proposal should be supported.

35. Ms Emily LAU said that she fully supported the holding of motion debates on reports of studies undertaken by LegCo committees, including the Report under discussion, since they were the outcomes of discussions of members of the committees concerned and contained useful information and recommendations. She did not subscribe to the view

Action

that motion debates initiated by individual Members should be accorded priority over those initiated by committees. She opined that it was for the committees concerned to decide whether to move motion debates on their reports, and not all committee reports would be debated at Council meetings. In her view, priority should be given to motion debates proposed by committees.

36. Mr LEUNG Yiu-chung said that he was a member of the delegation and supported the Panel's request. He pointed out that as the overseas duty visit was funded by public money, the Panel was duty-bound to report the delegation's findings and observations to the public. Holding a motion debate on the Report at a Council meeting would provide a good opportunity for the Panel to do so. He shared the view that it was for the committees concerned to decide on the need to hold motion debates on their overseas duty visit reports. He added that given its controversial nature, the subject of standard working hours warranted an early and in-depth discussion by LegCo.

37. Mr LEE Cheuk-yan stressed the importance of the subject of standard working hours which was of wide public concern. He said that the fact that the delegation comprised as many as 11 Members belonging to different political parties and groupings reflected the high level of concern and importance attached by Members to the subject. Committees played an important role in the work of LegCo, and Members should respect proposals put forward by committees. He appealed to Members to support the Panel's request.

38. As there were different views among Members, the Chairman put to vote the proposal for the priority allocation of a debate slot to the Chairman of the Panel on Manpower for moving a motion for debate at a Council meeting on the Report of the delegation of the Panel on Manpower on its duty visit to study the experience in the implementation of standard working hours in the Republic of Korea. Mr LEE Cheuk-yan requested to claim a division.

The following Members voted in favour of the proposal:

Mr LEE Cheuk-yan, Dr Margaret NG, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr WONG Kwok-kin, Dr PAN Pey-chyou, Mr LEUNG Kwok-hung, Miss Tanya CHAN and Mr Albert CHAN.

(19 Members)

Action

The following Members voted against the proposal:

Ir Dr Raymond HO, Dr David LI, Dr Philip WONG, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr Priscilla LEUNG and Mrs Regina IP.

(9 Members)

The following Members abstained:

Mr CHAN Kam-lam, Mr WONG Yung-kan, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Ms Starry LEE, Dr LAM Tai-fai and Mr IP Kwok-him.

(9 Members)

39. The Chairman declared that 19 Members voted for and nine Members voted against the proposal and nine Members abstained. The proposal was supported.

40. Regarding the Panel's proposal for holding the motion debate on the Report at the Council meeting of 8 February 2012, the Chairman reminded Members that a motion for seeking the Council's authorization to empower the Panel on Economic Development to exercise the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to order the production of information in connection with the 2012 tariff increases by the two power companies would be moved at that Council meeting, and the speaking time limit for that motion debate was 15 minutes for each Member. She said that Members might wish to take this into account in considering the date of the Council meeting for holding the motion debate on the Report.

41. Mr LEE Cheuk-yan suggested that the motion debate on the Report be held at the Council meeting of 15 February instead of 8 February 2012, to enable more focused discussions. Members agreed.

42. Members also agreed that there should only be one other motion debate without legislative effect at the Council meeting of 15 February 2012.

43. Ms Emily LAU enquired whether the speaking order of Members could be shown on the Information Display System ("IDS") on the computers at Members' desks for their information.

Action

44. At the invitation of the Chairman, Secretary General said that if the mechanism for displaying Members' speaking order was activated, pager messages would automatically be sent to the Members concerned. Should Members not mind receiving pager messages which might be frequent during the meeting, the Secretariat could make arrangement for the display of Members' speaking order on IDS.
45. Ms Emily LAU said that she did not mind receiving such pager messages during the meeting.
46. There being no other business, the meeting ended at 3:08 pm.

Council Business Division 2
Legislative Council Secretariat
1 February 2012