

立法會
Legislative Council

LC Paper No. CB(2) 2273/11-12

Ref : CB2/H/5/11

House Committee of the Legislative Council

**Minutes of the 25th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 1 June 2012**

Members present:

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
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 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 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-yee, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Tanya CHAN
Hon WONG Yuk-man

Members absent:

Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Dr Hon LEUNG Ka-lau
Dr Hon Samson TAM Wai-ho, JP
Hon Albert CHAN Wai-yip

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
Mr Andy LAU	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	Acting Senior Assistant Legal Adviser 4
Mrs Sharon TONG	Principal Council Secretary (2)
Miss Erin TSANG	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Miss Mary SO	Chief Council Secretary (3)3
Mr Bonny LOO	Assistant Legal Adviser 3
Ms Wendy KAN	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Ms Clara TAM	Assistant Legal Adviser 9
Ms Judy TING	Council Secretary (2)6
Mr Ringo LEE	Senior Legislative Assistant (2)1
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

Action

**I. Confirmation of the minutes of the 24th meeting held on 25 May 2012
(LC Paper No. CB(2) 2183/11-12)**

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that CS had expressed appreciation for the work of the Legislative Council ("LegCo") in responding to the views of the community and complementing the Administration's legislative timetable. The Administration would also complement the changes to be introduced to the question session at Council meetings in the Fifth LegCo.

3. The Chairman further said that CS had proposed to attend a special House Committee ("HC") meeting on Tuesday, 5 June 2012, from 11:00 am to 12:30 pm, to discuss population policy with Members.

Action

The relevant notice of meeting had been issued to Members on 30 May 2012.

4. Mr KAM Nai-wai said that he had written to the Chairman shortly before the HC meeting requesting to discuss ways to follow up the Director of Audit's report on the hotel accommodation arrangements for the Chief Executive ("CE")'s duty visits outside Hong Kong ("DoA Report") under Any Other Business ("AOB") at this HC meeting. The DoA Report had raised wide public concern about misuse of public funds by CE's Office and the Hong Kong Economic and Trade Offices. However, since the DoA Report was not tabled in LegCo, it could not be considered by the Public Accounts Committee under the Rules of Procedure ("RoP"). He noted that the Report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests ("Report of the Independent Review Committee") would be discussed by the Panel on Constitutional Affairs ("CA Panel") on 4 June 2012. He considered it necessary for Members to discuss the appropriate forum for following up the DoA Report, and enquired whether his letter could be discussed under AOB. He also requested the Chairman to enquire with CS whether, and if so, when the DoA Report would be tabled in LegCo to facilitate Members to follow it up at the appropriate forum.

5. The Chairman said that the deadline for proposing agenda items for this HC meeting was 5:00 pm on 29 May 2012. For agenda items raised after the deadline, consideration would be given to acceding the requests only if they related to matters of urgent importance. She did not consider that there was urgency in dealing with Mr KAM Nai-wai's request at this HC meeting, and had instructed the Clerk to include it in the agenda for the following week's regular HC meeting for discussing ways to follow up the DoA Report. It was her understanding that the DoA Report was not within the policy responsibilities of CS. Nevertheless, she would convey Mr KAM's concerns to CS.

6. Mr KAM Nai-wai considered that there was urgency in discussing his request as the term of office of the incumbent CE would end on 30 June 2012. He was concerned whether there would be sufficient time for discussion before 30 June if his request was not dealt with at this HC meeting.

7. The Chairman said that she had dealt with Mr KAM Nai-wai's request in accordance with the relevant rules and had arranged for it to be discussed at the next regular HC meeting.

Action

(b) **Three Double Taxation Relief Orders made under section 49(1A) of the Inland Revenue Ordinance**

*(Paragraphs 12 and 13 of the minutes of the 24th House Committee meeting held on 25 May 2012)
(LC Paper No. LS 72/11-12)*

*[Previous paper:
paragraphs 1 to 8 of LC Paper No. LS 65/11-12 issued vide
LC Paper No. CB(2) 2145/11-12 dated 24 May 2012]*

8. The Chairman invited Members to note the Legal Service Division's further report on the above three Orders, which related mainly to technical issues. She said that at the last HC meeting, Members did not raise any queries on the Orders.

9. Members noted the report.

10. The Chairman reminded Members that the deadline for amending the Orders was 20 June 2012.

III. Further business for the Council meeting of 6 June 2012

Meeting arrangements for the Council meeting of 30 May 2012

11. Mr IP Kwok-him said that the Council meeting of 30 May 2012 would be resumed on Saturday, 2 June after it was suspended at around 10:00 pm on 1 June. However, as many Members had indicated difficulties in attending the Council meeting on 2 June, he wished to seek HC's view on the proposal for not continuing the Council meeting on 2 June, with the unfinished business to stand over until the Council meeting of 6 June.

12. The Chairman said that at the last HC meeting, Members agreed that the Council meeting of 30 May should last four days until Saturday, 2 June. She invited Members' view on Mr IP Kwok-him's proposal.

13. Ms Emily LAU said that at the last HC meeting, Members raised no objection to the Council meeting of 30 May stretching over to 2 June. She had indicated clearly then that Members belonging to the Democratic Party ("DP") agreed to such arrangement so that Council business such as the Competition Bill could be dealt with as soon as possible. Members belonging to DP were prepared to attend the

Action

Council meeting on 2 June from 9:00 am to 10:00 pm. However, they would not insist that the Council meeting be held on 2 June if many Members were unable to attend as there might not be sufficient quorum.

14. Mr KAM Nai-wai said that Members belonging to the pro-democracy camp were prepared to attend the Council meeting on 2 June. If the Council meeting did not continue on 2 June, there would be one less Council meeting day for dealing with the unfinished business. Should this cause any delay in the scrutiny of the proposals for the re-organization of the Government Secretariat, he stressed that Members belonging to the pro-democracy camp should not be held responsible for it.

15. Mr TAM Yiu-chung said that the last Council meeting was held from Wednesday, 23 May to Friday, 25 May. It did not continue on Saturday, 26 May as a meeting of the Subcommittee to Study the Proposed Legislative Amendments Relating to the Re-organization of the Government Secretariat had been scheduled for that day to listen to public views on the proposals. Mr IP Kwok-him raised the proposal for not continuing the Council meeting of 30 May on Saturday, 2 June because many Members had indicated their unavailability to attend the Council meeting on that day.

16. Mr Alan LEONG said that Members belonging to the Civic Party ("CP") were most concerned whether bills and motions relating to people's livelihood, in particular the Competition Bill, could be dealt with before the Council was prorogued on 18 July 2012. They had no strong view should Members agree that the Council meeting of 30 May should not continue on 2 June.

17. Mr WONG Kwok-kin said that as the last few Council meetings had stretched over a few days, many Members felt exhausted. He was not feeling well but had still attended the Council meeting the day before until 10:00 pm. Members belonging to the Federation of Trade Unions agreed that the Council meeting should not continue on 2 June to allow Members to take a rest.

18. Dr Margaret NG said that Mr IP Kwok-him had already informed her of his proposal beforehand, and Members belonging to CP did not have strong view on it.

19. In response to Dr Margaret NG, the Chairman confirmed that the Subcommittee to Study the Proposed Legislative Amendments Relating to the Re-organization of the Government Secretariat had not scheduled any meeting on 2 June.

Action

20. Mr LEE Cheuk-yan said that Members belonging to the Labour Party had no particular view on Mr IP Kwok-him's proposal.

21. Members agreed to Mr IP Kwok-him's proposal that the Council meeting of 30 May would not continue on 2 June.

22. The Chairman said that Mr IP Kwok-him's proposal as agreed by Members would be conveyed to the President.

(a) **Tabling of papers**

Report No. 21/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2) 2185/11-12 issued vide LC Paper No. CB(3) 837/11-12 dated 31 May 2012)

23. The Chairman said that the Report covered nine items of subsidiary legislation, the period for amendment of which would expire on 6 June 2012. No Member had indicated intention to speak on the subsidiary legislation.

24. Members noted the Report.

(b) **Questions**

(LC Paper No. CB(3) 833/11-12)

25. The Chairman said that Mr Ronny TONG, Ms Audrey EU and Ms Emily LAU had replaced their oral questions.

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

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

(ii) **Construction Industry Legislation (Miscellaneous Amendments) Bill 2012**

(iii) **Personal Data (Privacy) (Amendment) Bill 2011**

26. The Chairman said that the Bills Committees on the above three Bills had reported to the House Committee at the last meeting, and Members did not raise objection to the resumption of the Second Reading

debates on these three Bills.

(d) **Government motions**

Proposed resolution to be moved by the Secretary for Commerce and Economic Development under the Import and Export Ordinance and the Interpretation and General Clauses Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 830/11-12 dated 29 May 2012.)

27. The Chairman said that as the proposed resolution regarding the reduction of import and export declaration charges originally scheduled for the Council meeting of 9 May 2012 had not been dealt with, the Secretary for Commerce and Economic Development had withdrawn his original notice and had given a fresh notice for moving at the Council meeting of 6 June 2012 the proposed resolution, with a deferred commencement date of the reduced charges from 1 June to 1 July 2012.

(e) **Members' motions**

Proposed resolution to be moved by Hon Audrey EU under section 34(4) of the Interpretation and General Clauses Ordinance in relation to the:

(i) **Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2012;**

(ii) **Building (Inspection and Repair) Regulation (Commencement) Notice; and**

(iii) **Building (Minor Works) (Amendment) Regulation 2011 (Commencement) Notice**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 841/11-12 dated 30 May 2012.)

28. The Chairman said that Ms Audrey EU, Chairman of the relevant Subcommittee, had given notice to move a motion at the Council meeting of 6 June 2012 to extend the scrutiny period of the above three Commencement Notices to 27 June 2012.

Meeting arrangements for the Council meeting of 6 June 2012

29. Regarding the Agenda for the Council meeting of 6 June 2012, the

Action

Chairman informed Members that after the question session, five Government bills would be dealt with, namely, the Competition Bill, the Mediation Bill, the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011, the Construction Industry Legislation (Miscellaneous Amendments) Bill 2012 and the Personal Data (Privacy) (Amendment) Bill 2011. This would be followed by eight Government motions, including the one made under the Legal Aid Ordinance, and three Members' motions for extending the scrutiny period of subsidiary legislation. She invited Members' view on the meeting arrangements for the Council meeting of 6 June.

30. Mr Ronny TONG said that given the large amount of unfinished business to be dealt with, the upcoming Council meetings would likely stretch over a few days. He considered that Members should be notified early of the arrangements for the upcoming Council meetings to facilitate their planning of work.

31. At the invitation of the Chairman, Secretary General ("SG") said that the Secretariat had consulted Members belonging to different political parties and groupings on the meeting arrangements for the Council meeting of 6 June. As many Members had indicated that they were not available on Saturday and Sunday, the Council meeting could be held from Wednesday, 6 June to Friday, 8 June. On 7 June, the Council meeting would be resumed at 2:30 pm as meetings with District Council ("DC") members had been scheduled for that morning. On 8 June, the Council meeting would be suspended at 2:30 pm to enable the holding of the HC and Finance Committee meetings scheduled for that afternoon. Discounting the two hours for the question session, there would be about 20 hours for dealing with the Government bills at the Council meeting of 6 June.

32. Mr Ronny TONG sought clarification on whether all the remaining Council meetings in the current session would last for three days from Wednesday to Friday.

33. At the invitation of the Chairman, SG said that the Secretariat had consulted Members only on the arrangements for the Council meetings of 6 and 13 June, and many Members had indicated their unavailability to attend these two Council meetings on Saturday and Sunday.

34. Mr Fred LI said that a motion for extending the scrutiny period of the Pesticide Residues in Food Regulation was scheduled to be moved by him, in his capacity as Chairman of the relevant subcommittee, at the Council meeting of 6 June. Given the many Government bills on the Agenda, he was concerned that the motion for extending the scrutiny

Action

period of the Regulation could not be dealt with at the Council meeting of 6 June, which was the last one for extending its scrutiny period. Noting a number of Members' motions on extension of scrutiny period of subsidiary legislation at that Council meeting, he enquired about the feasibility of suspending the relevant provisions of RoP so that priority could be given to these motions which were non-controversial and took a short time to complete.

35. The Chairman said that in accordance with the order of Council business stipulated in RoP 18, Members' motions for extending the scrutiny period of subsidiary legislation would be dealt with after the Government bills and Government motions had been transacted with. She sought the Secretariat's view on the viability of Mr Fred LI's proposal for suspending the relevant provisions of RoP to enable the Members' motions for extending the scrutiny period of subsidiary legislation to be dealt with first.

36. At the invitation of the Chairman, SG said that while procedurally a motion could be moved to suspend the operation of RoP 18, Members' motions could not be dealt with ahead of Government bills, unless with the Administration's consent. Should HC agree, the Secretariat could convey Members' view in this regard to the Administration.

37. Ms Audrey EU said that she was the Chairman of the Subcommittee on Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2012, Building (Inspection and Repair) Regulation (Commencement) Notice and Building (Minor Works) (Amendment) Regulation 2011 (Commencement) Notice. The three items of subsidiary legislation sought to appoint 30 June 2012 as the day on which the relevant provisions relating to, among others, the mandatory building inspection scheme and the mandatory window inspection scheme would come into operation. The Subcommittee had held a meeting to study the Commencement Notices. The Subcommittee had not raised any objection to the Commencement Notices and was awaiting supplementary information from the Administration. The legal adviser to the Subcommittee had advised the Subcommittee that as the Commencement Notices were subject to negative vetting, the relevant provisions would come into effect on 30 June 2012 if the Commencement Notices were not amended by LegCo within the scrutiny period. She had no view on the proposal for according priority to the Members' motions for extending the scrutiny period of subsidiary legislation, but wished to point out that insofar as the three Commencement Notices were concerned, there would be no substantive impact if such motions could not be dealt with at the Council meeting of 6 June.

Action

38. Mr Paul TSE sought clarification on why Members' motions could not be dealt with ahead of Government bills should the operation of RoP 18 be suspended.

39. At the invitation of the Chairman, Legal Adviser ("LA") drew Members' attention to Article 72(2) of the Basic Law ("BL 72(2)"), which provided that the President had to give priority to Government bills for inclusion in the Agenda of the Council. As such, even if RoP 18 was suspended, the President, in exercising his power to decide the Agenda of the Council under RoP 19(1), had to comply with BL 72(2).

40. Mr Paul TSE further sought advice on whether the President could rely on BL 72(6), which stipulated that the President could exercise other powers and functions prescribed in RoP, in conjunction with RoP 19(1) to adjust the order of the business of the Agenda for the Council meeting so that certain urgent items could be dealt with first.

41. The Chairman said that it was her understanding that in accordance with BL 72(2), the President was obliged to give priority to Government bills.

42. At the invitation of the Chairman, LA explained that pursuant to BL 75(2), RoP could not contravene the Basic Law. Subject to the Administration's consent, Members' motions might be dealt with ahead of Government bills.

43. The Chairman said that she would convey to CS Members' view on giving priority to Members' motions for extending the scrutiny period of subsidiary legislation.

44. Miss Tanya CHAN said that during the proceedings on the Legislative Council (Amendment) Bill 2012 ("LC(A) Bill 2012"), special arrangements for short breaks and meal breaks had been made for the Council meetings. She sought clarification on whether the normal arrangements (i.e. without breaks) would apply upon completion of the proceedings on the LC(A) Bill 2012, which would allow more time for dealing with the outstanding Council business.

45. The Chairman said that it was her understanding that the arrangements for short breaks and meal breaks only applied in relation to the Council proceedings on the LC(A) Bill 2012.

46. Mr IP Kwok-him said that the President had already informed Members before the suspension of this morning's Council meeting that no

Action

breaks would be arranged after the completion of the proceedings on the LC(A) Bill 2012.

47. Mr Albert HO said that given the many important bills required to be dealt with by the Council and the limited time available, he suggested that consideration be given to cancelling the meetings with DC members scheduled for Thursday morning in June 2012. He hoped that the relevant DC members would appreciate the difficulties faced by LegCo. He further suggested that the upcoming Council meetings might continue on Saturday morning until 1:00 pm to allow more time for dealing with the backlog.

48. The Chairman invited Members' view on Mr Albert HO's proposals.

49. Mr IP Kwok-him said that in the past, DC members had expressed strong view against the re-scheduling of Members' meetings with them owing to the resumption of Council meetings on Thursday morning. In view of this, arrangement had been made for Council meeting to resume in Thursday afternoon if meetings with DC members had been scheduled for that morning. He therefore objected to the proposed cancellation of the scheduled meetings with DC members. He further said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") considered it more appropriate to hold the upcoming Council meetings from Wednesday to Friday if necessary.

50. Mr Ronny TONG said that without any disrespect to DC members, he noted that many of the issues raised at meetings with DC members had been repeatedly discussed for many years, but the issues had not been resolved because the Administration did not attach importance to them. The practical situation was that with the imminent end of the current term, Members were running out of time to complete all the Council business before the prorogation of the Council. In the circumstances, he agreed that other less urgent meetings should give way. He therefore supported Mr Albert HO's proposal for cancelling the scheduled meetings with DC members.

51. Mrs Sophie LEUNG recalled that two years ago, the low attendance rate of Members at meetings with DC members had caused great dissatisfaction from DC members. She was concerned that the proposed cancellation of such meetings would arouse even greater dissatisfaction from DC members. She did not subscribe to the view that the issues raised at meetings with DC members were repetitive, and considered that Members should attach importance to maintaining communications with DCs. In her view, Members should not cancel the

Action

scheduled meetings with DC members merely because they had wasted their own time in filibustering.

52. Mr Andrew LEUNG said that he had attended some meetings with DC members and had helped to resolve some of the issues raised. He considered it important for Members, in particular those returned by geographical constituencies, to attach importance to issues raised at the meetings with DC members. He pointed out that Members were well aware that the Council would be prorogued in mid July 2012. If it were not for the filibuster of some Members during the proceedings on the LC(A) Bill 2012, there would not be a huge backlog of Council business. He objected to the proposals for cancelling the scheduled meetings with DC members and continuing the Council meetings on Saturday morning.

53. Mr CHAN Hak-kan stressed the importance for Members to honour their promise to meet with DC members. He recalled that two years ago, when serving as the Convenor of a meeting with North DC members, he had to extend an apology to the North DC members for cancelling the meeting due to its clash with the Council meeting. Subsequently, arrangement had been made for Council meeting to be resumed in Thursday afternoon if meetings with DC members had been scheduled for that morning. In his view, whether the issues raised by DC members could be resolved was a different matter. He considered that the meetings with DC members should be held as scheduled.

54. Dr Priscilla LEUNG said that she was an elected DC member. According to her experience, the discussions at DC meetings were sometimes more effective and efficient than those at LegCo. She noted that the relationship between LegCo and DCs was not good, and DC members had expressed dissatisfaction with LegCo. She shared the view that Members should not cancel the scheduled meetings with DC members, which, in her view, would further damage the relationship between LegCo and DCs.

55. Ms Emily LAU said that having regard to Members' views, the proposal for cancelling the meetings with DC meetings should not be pursued. Nevertheless, she considered it necessary for Members to find ways to deal with the large amount of unfinished business on the Agenda of the Council. Noting that many Members had indicated their unavailability to attend the Council meetings of 6 and 13 June on Saturday and Sunday of the week, she hoped that the Secretariat would consult Members and work out the arrangements for the remaining Council meetings as early as practicable so that Members could plan their work early.

Action

56. Mrs Regina IP said that the Father's Day and the Dragon Boat Festival would fall on 17 and 23 June 2012 respectively. She pointed out that many Members would not be available to attend Council meetings on these two days.

57. The Chairman said that Members could further discuss the arrangements for the upcoming Council meetings at the next HC meeting.

58. Mr LEUNG Kwok-hung said that if the Administration had honoured the promise it had made when the two Municipal Councils were abolished to allocate more resources and powers to the DCs, it would not have been necessary for DC members to approach LegCo to seek assistance in resolving the issues in their districts. Furthermore, if all the political parties had honoured their promise to support the implementation of dual universal suffrage in 2007 and 2008, Members included himself would not have to resort to filibustering. He criticized the CE-elect for putting pressure on LegCo not to obstruct his proposals for the re-organization of the Government Secretariat.

59. Mr Paul TSE enquired whether it was feasible for meetings with DC members to be held in parallel with Council meetings.

60. The Chairman said that it had been the established principle that other meetings should not be held when the Council meeting was in progress. She considered that Members should not make a decision lightly to depart from such principle at this HC meeting.

61. Mr IP Wai-ming said that he did not agree that meetings with DC members be held in parallel with Council meeting, as Members would have to leave the meetings with DC members in order to vote at the Council meeting.

62. At the invitation of the Chairman, SG said that the matter had been discussed by HC before. As more than 10 Members would attend the meetings-cum-luncheon with DC members, the Council meeting would be affected if it was held in parallel. In view of this, arrangement had been for the resumption of Council meeting in Thursday afternoon if meetings with DC members had been scheduled for that morning. SG further said that she would try to see whether arrangements could be made for committee meetings to be held in the morning as far as practicable after mid June so that, where necessary, the Council meeting could be resumed in the afternoon on the following Monday or Tuesday. She would report to Members on the meeting arrangements for the upcoming Council meetings at the next HC meeting.

Action

63. Members agreed that the meetings with DC members would be held in June as scheduled.

IV. Business for the Council meeting of 13 June 2012

(a) Questions

(LC Paper No. CB(3) 832/11-12)

64. 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

Supplementary Appropriation (2011-2012) Bill

65. The Chairman said that the Administration had given notice to present the above Bill to the Council on 13 June 2012. The HC would consider the Bill at its meeting on 15 June 2012.

(c) Government motions

(i) Proposed resolution to be moved by the Secretary for Food and Health under the Pharmacy and Poisons Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 805/11-12 dated 24 May 2012.)

(LC Paper No. LS 69/11-12)

66. The Chairman said that the proposed resolution was for seeking LegCo's approval of the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2012 and the Poisons List (Amendment) (No. 2) Regulation 2012 to add 11 substances to Division A of Part I of the Schedule to the Poisons List Regulations and Divisions A of the First and Third Schedules to the Pharmacy and Poisons Regulations, so that these substances could only be sold on registered premises of an authorized seller of poisons by a registered pharmacist or in his presence and under his supervision, with a prescription given by a registered medical practitioner, registered dentist or registered veterinary surgeon.

67. Members raised no objection to the Administration moving the proposed resolution at the Council meeting of 13 June 2012.

(ii) Three proposed resolutions to be moved by the Secretary for Labour and Welfare under the following three Ordinances:

Action

- **Employees' Compensation Ordinance;**
- **Pneumoconiosis and Mesothelioma (Compensation) Ordinance; and**
- **Occupational Deafness (Compensation) Ordinance**

*(Wording of the proposed resolutions issued vide LC Paper No. CB(3) 822/11-12 dated 28 May 2012.)
(LC Paper No. LS 71/11-12)*

68. The Chairman said that the three proposed resolutions were for seeking LegCo's approval to increase the amount of 15 items of compensation/surcharge provided under various occupational compensation ordinances with effect from 14 July 2012. The Panel on Manpower had been consulted on the legislative proposals on 20 January and 23 May 2012. In order to have early implementation of the proposed increase, Panel members agreed that it was not necessary to set up a subcommittee to further study the proposed resolutions.

69. Members raised no objection to the Administration moving the proposed resolutions at the Council meeting of 13 June 2012.

(iii) Proposed resolution to be moved by the Secretary for Development under the Buildings Ordinance

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 812/11-12 dated 25 May 2012.)
(LC Paper No. LS 70/11-12)*

70. The Chairman said that the proposed resolution was for seeking LegCo's approval to amend Schedule 5 to the Buildings Ordinance (Cap. 123) to include new railway protection areas and sewage tunnel protection areas, among others.

71. Members raised no objection to the Administration moving the proposed resolution at the Council meeting of 13 June 2012.

(d) Members' motions

(i) Motion on "Report of the Subcommittee"

(Wording of the motion issued vide LC Paper No. CB(3) 827/11-12 dated 28 May 2012.)

Action

72. The Chairman said that the above motion on the report of the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products would be moved by Ir Dr Raymond HO at the Council meeting of 13 June 2012, and the wording of the motion had been issued to Members.

73. The Chairman further said that Members had agreed at the last HC meeting that the speaking time limit for each Member at the motion debate was 15 minutes each.

74. In response to Mr KAM Nai-wai's enquiry, the Chairman said that the Subcommittee's report would be tabled at the Council meeting of 6 June, and the motion debate on the report was scheduled for the Council meeting of 13 June.

(ii) Motion to be moved by Hon Jeffrey LAM

75. The Chairman said that the subject of the motion to be moved by Mr Jeffrey LAM was "Maintaining a business-friendly environment in Hong Kong".

76. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 6 June 2012.

Report on study of subsidiary legislation

77. The Chairman invited Members to note the list containing nine items of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 13 June 2012. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 5 June 2012.

V. The Chief Executive's Question and Answer Session on 14 June 2012

78. The Chairman said that CE's Question and Answer Session ("Q & A") would be held from 3:00 pm to 4:30 pm. She asked whether Members had any special issues which they would like CE to cover at the Q & A Session.

79. Ms Emily LAU and Mr TAM Yiu-chung suggested that CE should cover the DoA Report and the Report of the Independent Review Committee at the Q & A Session.

Action

80. Mr Paul TSE suggested that issues relating to the suspected acceptance of advantages from Sun Hung Kai Properties Limited by Mr Rafael HUI, a former CS, should also be covered.

81. The Chairman said that she would convey Members' suggestions to CS.

VI. Report of Bills Committees and subcommittees

**(a) Report of the Bills Committee on United Nations
(Anti-Terrorism Measures) (Amendment) Bill 2012**
(LC Paper No. CB(4) 187/11-12)

82. Mr TAM Yiu-chung reported on the work of the Bills Committee on behalf of its Chairman, Mr LAU Kong-wah, who had left the meeting. Mr TAM said that the Bills Committee had held three meetings to study the Bill and had completed its scrutiny work. The Bill sought to amend the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) to expand the definition of "terrorist act" to cover acts intended to coerce international organizations; broaden the scope of prohibited terrorist financing from acts involving "funds" to those involving "property" of every kind; and create a new offence of collecting property or soliciting financial (or related) services for terrorists or terrorist associates.

83. Mr TAM Yiu-chung further reported that the discussions of the Bills Committee had focused on whether the definition and coverage of "property" was too wide; the definition of "international organization"; and whether the coverage relating to criminalization of the collection of property or solicitation of financial (or related) services for terrorists or terrorist associates was too wide. He referred Members to the Bills Committee's report for details of its deliberations.

84. Mr TAM Yiu-chung added that the Administration and the Bills Committee had not proposed any Committee Stage amendments ("CSAs") to the Bill. The Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 13 June 2012.

85. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 4 June 2012.

**(b) Report of the Bills Committee on Legal Practitioners
(Amendment) Bill 2010**
(LC Paper No. CB(2) 2210/11-12)

86. Dr Margaret NG, Chairman of the Bills Committee, said that the Bill sought to introduce limited liability partnership ("LLP") for solicitors' practices in Hong Kong and changes to the existing standard partnership practices. The Bills Committee had held 16 meetings and had invited views from organizations including the Law Society of Hong Kong ("LS") and Consumer Council. She referred Members to the Bills Committee's report for details of its deliberations.

87. Dr Margaret NG reported that the discussions of the Bills Committee had focused on the provisions relating to liabilities of partners and regulation of distribution of partnership property of an LLP. Members' main concern was on how a proper balance could be struck between protecting innocent LLP partners and providing safeguard to consumers of legal services.

88. Dr Margaret NG further reported that the Bills Committee had also expressed concern that Hong Kong was lagging behind other jurisdictions in implementing professional liability reform, which had significant implications on Hong Kong's competitiveness as a leading international financial centre in the Asia-Pacific region. The Bills Committee supported the early enactment of the Bill, which could facilitate the implementation of LLP in other professional operations.

89. Dr Margaret NG said that in light of members' views, the Administration had proposed relevant CSAs to the Bill. Given the significant scope of the proposed CSAs, the Bills Committee had spent considerable time to study them. In response to LS' view, the Administration would move CSAs to amend the limitation period for clawback action in relation to the distributed property of an LLP from six years to two years. The Administration would also move CSAs to require LLPs to take out top up insurance against losses in addition to the indemnity provided to partnerships under the Professional Indemnity Scheme in exchange for shortening the clawback period to two years. The Bills Committee had just received further views from LS to which the Administration had provided its response. The Bills Committee had completed its work and supported the resumption of the Second Reading debate on the Bill at the Council meeting of 13 June 2012.

90. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 4 June 2012.

(c) **Report of the Bills Committee on Immigration (Amendment) Bill 2011**

(LC Paper No. CB(2) 2192/11-12)

91. Mr TAM Yiu-chung reported on the work of the Bills Committee on behalf of its Chairman, Mr LAU Kong-wah, who had left the meeting. Mr TAM said that the Bill sought to provide for a statutory framework for determining claims made by persons in Hong Kong for protection under Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") against expulsion, return or extradition of the claimant to countries in which they would be in danger of being subjected to torture. The Bills Committee had held 15 meetings and had received views from organizations including LS, Hong Kong Bar Association and Duty Lawyer Service.

92. Mr TAM Yiu-chung further said that the major concerns raised by members related to the rights of and protection for claimants. These concerns included whether the time limit of 28 days was sufficient for a claimant to return the completed torture claim form; consequences to a claimant for not providing information or attending interviews arranged by Immigration Department ("ImmD"); whether a claimant would be allowed a review by the Torture Claims Appeal Board of the decision made by ImmD to refuse the claimant's request to re-open a withdrawn claim; factors to be taken into consideration in deciding a torture claim; the appropriateness for ImmD to revoke a decision made by the Torture Claims Appeal Board to accept a torture claim; and the practice and procedure of the Torture Claims Appeal Board.

93. Mr TAM Yiu-chung said that in response to members' concerns and suggestions, the Administration agreed to move various CSAs. The Administration considered the proposed 28-day timeframe for return of the completed torture claim forms by torture claimants reasonable and appropriate. Some members objected to the 28-day timeframe. Dr Margaret NG had indicated that she would propose CSAs to extend the proposed timeframe to allow sufficient time for claimants to return their torture claim forms. The Bills Committee raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 13 June 2012.

94. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 4 June 2012.

(d) **Report of the Bills Committee on Buildings Legislation (Amendment) Bill 2011**

(LC Paper No. CB(2) 2191/11-12)

95. Mr IP Kwok-him, Chairman of the Bills Committee, said that the Bill sought to bring in the following five new measures to further enhance building safety –

- (a) surcharge on default works;
- (b) penalty against persons who refused to share cost of works by owners' corporation for compliance with statutory orders or notices;
- (c) court warrants to enter individual premises;
- (d) signboard control system; and
- (e) registered inspectors to comprehensively report exterior unauthorized building works under a mandatory building inspection scheme.

96. Mr IP Kwok-him reported that the Bills Committee supported the five measures to be introduced by the Bill. Nevertheless, members were concerned about the two grounds on which the Building Authority could apply to the Court for a warrant for entering private premises, as it would infringe on the private property rights and privacy of individual owners. In response to members' concerns, the Administration agreed to propose relevant CSAs to the Bill.

97. Mr IP Kwok-him further reported that in the light of members' concern, the Administration agreed to completely waive the surcharge for owners who were old, infirm or with disability or mental illness and also had genuine practical difficulties to arrange the required works. The Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 13 June 2012.

98. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 4 June 2012.

(e) **Report of the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2012**

(LC Paper No. CB(2) 2229/11-12)

Action

99. Dr Margaret NG, Chairman of the Bills Committee, said that the Bill was an omnibus bill which sought to make miscellaneous amendments to various Ordinances. The major proposed amendments included -

- (a) implementing the Law Reform Commission's recommendation to abolish the common law presumption that a boy under 14 was incapable of sexual intercourse; and
- (b) amending the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997) ("1997 Ordinance") to enable the relevant provisions of the 1997 Ordinance relating to solicitor corporations to be brought into operation.

100. Dr Margaret NG added that pursuant to the request of LS, the Administration would move certain CSAs relating to solicitor corporations to the Bill. The Bills Committee agreed to the CSAs proposed by the Administration and supported the resumption of the Second Reading debate on the Bill at the Council meeting of 13 June 2012.

101. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 4 June 2012.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 2184/11-12)

102. The Chairman said that there were four Bills Committees, 12 subcommittees under the House Committee (i.e. eight subcommittees on subsidiary legislation, two subcommittees on policy issues and two subcommittees on other Council business) and six subcommittees under Panels in action.

VIII. Proposal of Hon WONG Sing-chi for invoking the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance to order the Chief Executive-elect's Office to produce its employment contract with Mrs Fanny LAW

(Letter dated 29 May 2012 from Hon WONG Sing-chi to the Chairman of the House Committee (LC Paper No. CB(2) 2208/11-12(01)))

103. Mr WONG Sing-chi said that at the Council meeting of 23 May 2012, he raised an oral question concerning the appointment of Mrs

Action

Fanny LAW as the Head of the CE-elect's office ("CEEEO"). His main concern was whether Mrs LAW had been exempted from the provisions concerning post-service restrictions under the Code for Officials under the Political Appointment System ("the Code"), such as the requirements that within one year after stepping down from office, politically appointed officials should not represent any person in connection with any transaction or negotiation against or with the Government and should not engage in any lobbying activities on matters relating to the Government. In his view, given the important nature of Mrs LAW's duties, which included making contacts with persons to be appointed as principal officials in the next term of Government and working out their policy responsibilities, any granting of exemption from the Code to Mrs LAW would give rise to public concerns about transfer of interest and deferred benefit. It was therefore important for CEEEO to disclose its employment contract with Mrs LAW as so to allay public concerns.

104. Mr WONG Sing-chi further said that in its response to his oral question, the Administration had only indicated that Mrs Fanny LAW's appointment was under non-civil service terms and the Head of CEEEO was not an official under the political appointment system. However, CEEEO had refused to reveal details of Mrs LAW's employment contract. Mr WONG stressed that as Mrs LAW's appointment was funded by public money, Members had the responsibility to monitor and ensure prudent use of public funds by requesting CEEEO to produce its employment contract with Mrs LAW. Hence, his proposal for invoking the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("P&P Ordinance") to order CEEEO to produce its employment contract with Mrs LAW. He added that given the grave concern expressed by Members about the DoA Report on the accommodation arrangements for CE's duty visits outside Hong Kong, Members would be adopting double standard if they did not follow up on Mrs LAW's appointment which might involve deferred benefit.

105. Mr IP Kwok-him said that he did not agree to the logic behind Mr WONG Sing-chi's proposal that CEEEO should produce its employment contract with Mrs Fanny LAW on the ground that the appointment was publicly-funded. Should this be the case, all employment contracts that were publicly-funded should be disclosed. Mr IP further said that there had been arguments and conflicts between Members belonging to DP and Mrs LAW during the discussions at committee meetings on issues relating to the proposed reorganization of the Government Secretariat. The proposal by a Member of DP to invoke the powers under the P&P Ordinance to order the production of Mrs LAW's employment contract would give the public the perception of unfairness and injustice. Furthermore, Mrs LAW's appointment was a special appointment under

Action

non-civil service terms and her appointment only lasted for two months or so until 30 June 2012. Having regard to the above considerations, Members belonging to DAB did not support Mr WONG's proposal.

106. Mr James TO said that all public expenditure was subject to monitoring by LegCo. He pointed out that during the yearly examination of the Estimates of Expenditure, Members were provided with detailed information on the relevant establishment and headcount of each Government department and bureau. However, for CEEO, it was not clear who was the controlling officer. He was concerned about the lack of monitoring on the expenditure of CEEO.

107. Mr James TO further said that given Mrs Fanny LAW's involvement in selecting the politically appointed officials for the next term of Government, granting exemption to her from the post-service restrictions under the Code would raise concern about possible conflict of interest. However, the Administration had turned down Mr WONG Sing-chi's request, which, in his view, was reasonable and proportionate, for relevant information on Mrs LAW's employment contract. It was against such background that Mr WONG raised his proposal for invoking the powers under the P&P Ordinance to order the production of Mrs Law's contract. Mr TO further said that in the light of the recent wide public concern about the accommodation arrangements for CE's duty visits outside Hong Kong, it was incumbent upon Members to follow up on Mrs LAW's appointment so as to discharge their duties in monitoring the use of public funds.

108. Mr LEUNG Kwok-hung said that as CEEO had refused to disclose details of its employment contract with Mrs Fanny LAW, Members had no choice but to invoke the powers under the P&P Ordinance to order the production of the employment contract.

109. Mr LEE Wing-tat said that according to the Code, politically appointed officials had to seek the advice of a committee appointed for this purpose by the CE before commencing any employment within one year after stepping down from office. He was concerned whether Mrs Fanny LAW as the Head of CEEO was subject to this rule. He stressed that the public had the right to know such information.

110. As there were divided views among Members, the Chairman put to vote the proposal of Mr WONG Sing-chi for invoking the powers under the P&P Ordinance to order the CE-elect's Office to produce its employment contract with Mrs Fanny LAW. Ms Audrey EU requested a division.

Action

The following Members voted in favour of the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Ronny TONG, Mr CHIM Pui-chung, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr Paul TSE, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN.
(22 Members)

The following Members voted against the proposal:

Dr David LI, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr WONG Kwok-hing, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Prof Patrick LAU, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP and Dr PAN Pey-chyou.
(25 Members)

The following Member abstained from voting:

Mr WONG Yuk-man.
(1 Member)

111. The Chairman declared that 22 Members voted for the proposal, 25 Members voted against it and one Member abstained. Mr WONG Sing-chi's proposal was negatived.

112. There being no other business, the meeting ended at 4:03 pm.