

立法會
Legislative Council

LC Paper No. CB(2) 2453/11-12

Ref : CB2/H/5/11

House Committee of the Legislative Council

**Minutes of the 28th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 22 June 2012**

Members present:

Hon Miriam LAU Kin-ye, 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 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 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
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-yee, 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:

Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, 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
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 Kelvin LEE	Acting 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
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Winnie LO	Assistant Legal Adviser 7
Mr YICK Wing-kin	Assistant Legal Adviser 8
Miss Evelyn LEE	Assistant Legal Adviser 10
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

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I. Confirmation of the minutes of the 27th meeting held on 15 June 2012
(*LC Paper No. CB(2) 2394/11-12*)

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 there was nothing special to report.

(b) Planning of Council business to be dealt with at Council meetings before 18 July 2012

(*LC Paper No. CB(2)2399/11-12*)

3. The Chairman said that the Secretariat had prepared an updated plan on Council business to be dealt with at Council meetings before 18 July 2012, in the light of the latest progress of the Council meeting commencing on 20 June 2012.

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4. At the invitation of the Chairman, Secretary General ("SG") said that the plan was updated to reflect the progress of the Council meeting up to 1:00 pm of the day of the House Committee ("HC") meeting. As the President had decided that for the remaining Council meetings to be held before 18 July 2012, lunch and dinner breaks each lasting for about one hour would be provided, adjustments had been made to the plan in respect of the number of hours available for each Council meeting. Adjustments had also been made to the estimated time required for dealing with some of the bills, as it was anticipated that these bills would take longer time to process. With the continuation of the Council meeting of 20 June 2012 on 25 and 26 June 2012, the Secretariat estimated that the proceedings on a number of Government bills could be completed at that Council meeting. The Council meeting of 27 June 2012 would be dealing mainly with the Buildings Legislation (Amendment) Bill 2011 and the Companies Bill, while the Council meeting of 4 July 2012 would be mainly for the proceedings on the Residential Properties (First-hand Sales) Bill and Government motions. Subject to the progress of the Council meetings, the legislative process of the proposed resolution relating to the re-organization of the Government Secretariat might start at the Council meeting of 4 July 2012 but the entire proceedings would unlikely be concluded at that Council meeting. Any unfinished proceedings would be carried forward to the following Council meeting of 11 July 2012.

5. SG further said that given the large amount of business on the Agenda of the Council, individual Members' motions without legislative effect would unlikely be reached before the Council was to stand prorogued on 18 July 2012. Taking three hours as the average time to be spent on each motion, the total time required for dealing with the 17 motions to be moved by individual Members would be 51 hours. SG added that to provide more time to deal with the unfinished business, the Secretariat had proposed an additional time slot for continuation of the Council meeting of 4 July 2012, i.e. 10 July 2012 from 2:30 pm to 10:00 pm.

6. Citing the proceedings on the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011 as an example, the Chairman said that many items of business had taken longer time than expected to complete and it was difficult to estimate with precision the time required for completing all the outstanding Council business. Based on the Secretariat's latest estimation, she did not see any chance that the 17 Members' motions without legislative effect could be dealt with before the prorogation of the Council on 18 July 2012.

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7. Referring Members to page 4 of the updated plan, SG said that some items of business might not need to be processed, such as the motion under Article 73(9) of the Basic Law ("BL") jointly initiated by 23 Members. Some motions were pending the President's approval. The moving of the proposed resolution under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("the P&P Ordinance") by Mr LEE Wing-tat would be subject to the discussions at the meeting of the relevant Panel on 28 June 2012 and the development of the matter.

8. Ms Audrey EU said that she had just learnt from the Government officials responsible for the Residential Properties (First-hand Sales) Bill that they were striving to have the resumption of the Second Reading debate on the Bill resumed before that on the Companies Bill. As Members needed time to prepare for the resumption of the Second Reading debates on these bills, she enquired whether the Administration had notified the Secretariat of its intention to change their order. She considered it necessary for the Administration to give sufficient notice to facilitate Members' preparation should it wish to swap the order of resuming the Second Reading debates on these two Bills.

9. At the invitation of the Chairman, SG said that so far, the Administration had not given any notice for changing the order for resumption of the Second Reading debates on the Companies Bill and the Residential Properties (First-hand Sales) Bill. She would clarify with the Administration after the meeting.

10. Given the huge backlog of business on the Agenda of the Council, Ms Audrey EU was concerned whether the deferred processing of Government bills and motions would impact on their commencement dates. She sought advice from Legal Adviser ("LA") in this regard. She said that it had all along been the position of the Civic Party that bills and motions relating to people's livelihood should be dealt with first. Citing the proposed resolution relating to senior judicial appointments as an example, she opined that priority should be accorded to bills and motions which were time-bound and non-controversial.

11. At the invitation of the Chairman, LA said that the Legal Service Division would study the commencement arrangements of each bill and motion and provide a paper to Members.

12. The Chairman said that the implementation of the proposed resolution under the Import and Export Ordinance (Cap. 60) had been

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affected. The proposed resolution sought to reduce the charges for import and export declarations, which would facilitate the development of the logistics industry. The fee reduction was originally scheduled for implementation on 1 June 2012 but had been deferred to 1 July 2012 as the proposed resolution could not be dealt with at the Council meetings concerned.

13. Ms Emily LAU said that as the Administration had withdrawn its request for scheduling additional Finance Committee ("FC") meetings on 26 June 2012, the Council meeting of 20 June 2012 could continue on 26 June 2012. She hoped that the Administration would consider swapping the order of resuming the Second Reading debates on the Companies Bill and the Residential Properties (First-hand Sales) Bill so that the incumbent Secretary for Transport and Housing ("STH"), Ms Eva CHENG, could complete the legislative work on the Residential Properties (First-hand Sales) Bill before departing from her office on 30 June 2012. She further said that should the Administration agree to withdraw its proposals relating to the re-organization of the Government Secretariat from the Agendas of the Council and FC, she believed that the outstanding Council business could be dealt with more smoothly. Subject to Members' view, she hoped that the Chairman could relay these views to CS.

14. Mr TAM Yiu-chung said that Members should make their best efforts to complete the legislative process of all Government bills and motions on the Agenda of the Council, including the proposed resolution relating to the re-organization of the Government Secretariat, before the Council was to stand prorogued on 18 July 2012. While Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") did not have strong views on the order for resuming the Second Reading debates on the Companies Bill and the Residential Properties (First-hand Sales) Bill, they objected to the view that the Administration should withdraw the proposed resolution relating to the re-organization proposals.

15. Referring to the proposed days of the remaining Council meetings, Mr TAM Yiu-chung said that Members belonging to DAB would have difficulties in attending the Council meeting in the late afternoon of 10 July 2012 as DAB would be holding a cocktail reception from 5:00 pm that evening to celebrate its 20th anniversary. If possible, they hoped that the Council meeting would not be resumed on 29 June 2012.

16. Mr LEE Wing-tat said that it was his understanding that the incumbent STH would leave the Government upon the end of the current term Government on 30 June 2012. As she had worked on the

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Residential Properties (First-hand Sales) Bill for many years, he considered it a good arrangement to resume the Second Reading debate on the Bill before that on the Companies Bill in order to enable her to complete the legislative work. Swapping the order for processing these two Bills should not have impact on the incumbent Secretary for Financial Services and the Treasury as he would likely continue in his present office in the next term Government.

17. Dr Margaret NG pointed out that due to the deferred processing of the proposed resolution under the Legal Aid Ordinance (Cap. 91), the proposed expansion of the legal aid schemes could not be implemented within the current legislative session. In addition, Mr Justice Syed Kemal Shah Bokhary would reach his normal retiring age of 65 years on 25 October 2012 and vacate his judicial office as a Permanent Judge of the Court of Final Appeal ("CFA"). If the proposed resolution relating to senior judicial appointments could not be processed before the prorogation of the Council on 18 July 2012, the operation of CFA would be affected. She further sought information on the consequences should FC approve the financial proposals relating to the re-organization proposals before 1 July 2012 but the proposed resolution had yet to be passed by the Legislative Council ("LegCo").

18. At the invitation of the Chairman, LA said that according to the papers provided by the Administration, the proposed resolution and financial proposals relating to the re-organization proposals had the same effective date of 1 July 2012. However, the Administration had just proposed amendments to the proposed resolution to the effect that if FC approved the funding proposals for the re-organization of the Government Secretariat before 1 July 2012, the resolution would take effect from 1 July 2012, whereas if FC approved the funding proposals on or after 1 July, the resolution would come into effect on the fifth day after approval by FC. The Legal Service Division was studying the legal implications of the proposed amendments to the resolution and would provide a paper to Members.

19. Mr LEUNG Kwok-hung considered it unreasonable for Members of DAB to raise the request for not resuming the Council meeting in the late afternoon of 10 July 2012 because of their holding of the cocktail reception to celebrate DAB's 20th anniversary. Should such request be acceded to, he would request the Council not to meet on 4 and 14 July 2012 since he had to participate in protests and demonstrations on these days which were the Independence Day of the United States and the National Day of France respectively.

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20. The Chairman said that Members were discussing the plan for the remaining Council meetings before 18 July 2012 and Members were free to express their views on the matter.

21. Mr Paul TSE said that under Rule 23(4) of the Rules of Procedure ("RoP"), HC might recommend to the President that in respect of a particular meeting no question requiring an oral reply should be asked. Given the huge backlog of Council business, he opined that consideration could be given to changing the oral questions in the remaining Council meetings to written ones so as to provide more time for processing the Government bills and motions. In his view, to enable the Council to deal with all the business effectively and efficiently, the Administration could consider moving motions under RoP 40 to adjourn the relevant debates so that those less complicated and non-controversial bills or motions could be transacted first.

22. In response to Mr Paul TSE, LA said that according to the decision made by the Standing Committee of the National People's Congress, in case of any discrepancy in the meaning of words in the Chinese and English versions of BL, the Chinese version should prevail. Accordingly, if there was a discrepancy in the meaning of "bills" and "議案" under BL 72(2), the meaning of the Chinese term "議案" should prevail. It was his understanding that the Chinese term "議案" included both bills and motions. LA further said that the order of transaction of Council business was set out in RoP 18. In deciding on the order of Government bills and motions on the Agenda of the Council, the President would take into account and respect the Administration's views.

23. Mr IP Kwok-him said that he did not see any reason why the Council should not meet on 4 July 2012, the Independence Day of the United States. He was supportive of the proposal that the Second Reading debate on the Residential Properties (First-hand Sales) Bill be dealt with ahead of that on the Companies Bill, so as to tie in with the incumbent STH's tenure of office. While it was for the Administration to decide on the order for the resumption of Second Reading debates on Government bills, he hoped that, subject to the agreement of Members, the Chairman would convey Members' view to CS during her next meeting with CS. Mr IP further said that while he appreciated the efforts made by the Secretariat in coming up with the plan on business to be dealt with at Council meetings before 18 July 2012, he considered it difficult for the Secretariat to predict accurately the number of hours that the Council would spend on each item, particularly when the Council was operating under abnormal conditions.

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24. Mr Andrew LEUNG said that he did not have strong views on changing the order for resuming the Second Reading debates on the Companies Bill and the Residential Properties (First-hand Sales) Bill, so long as it was procedurally in order. He stressed that any changes to the order of business on the Agenda of the Council should comply with the established practices and procedures.

25. Mr Albert CHAN said that he and Mr WONG Yuk-man were required to be present at court in the morning of 9 July 2012, and his football team would be celebrating its 20th anniversary in the evening of 28 June 2012. If possible, he hoped that the Council would not meet during those times.

26. Mr Ronny TONG said that different Members might have different views on whether a bill was complicated. He considered that personal considerations should not be taken into account in deciding the order of business on the Agenda of the Council. Regarding the order of resumption of the Second Reading debate on the Residential Properties (First-hand Sales) Bill, he did not subscribe to the view that the incumbent STH's departure from office should be a relevant consideration. He pointed out that Directors of Bureaux rarely attended meetings of Bills Committees and he did not consider it important for STH to attend the Council meeting at which the Second Reading debate on the Bill was to be resumed. In his view, the order of Council business should follow the established practices and procedures, except for bills and motions which were time critical. He added that while Members could indicate their unavailability to attend Council meetings on certain dates, they did not need to give reasons for their unavailability and should not request the President not to schedule meetings on those dates.

27. Mr Fred LI said that it was not necessary for the Administration to move a motion under RoP 91 to suspend RoP 18 should it wish to change the order for resuming the Second Reading debates on the Companies Bill and the Residential Properties (First-hand Sales) Bill, as they fell within the same category of business stipulated under RoP 18. In his view, Members should make their best endeavour to complete the legislative process of all Government bills and motions before the prorogation of the Council and avail themselves for attending the Council meetings. Where necessary, the Council meetings should be resumed on Saturdays. Regarding the 17 Members' motions with no legislative effect, including the one to be moved by him on "Promoting animal rights and interests", he did not mind if they could not be dealt with before the prorogation of the Council due to time constraint. He

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considered the debate on the valedictory motion at the last Council meeting of the LegCo term important and should be held. Stressing the importance of oral questions in soliciting response from the Administration, he did not support the proposal for changing the oral questions scheduled for the remaining three Council meetings to written questions.

28. Mr CHAN Kam-lam said that while Members could express their views on the order for resuming the Second Reading debates on the Companies Bill and the Residential Properties (First-hand Sales) Bill, the decision rested with the Administration. Given the limited time left before the prorogation of the Council, he appealed to Members to render their support and co-operation in completing the work of the Council and make their best efforts to attend the Council meetings. Noting that many items of business had taken longer time than usual to complete at recent Council meetings, he also appealed to Members to make concise speeches at Council meetings. He stressed that Members were duty bound to complete all the Council business before the prorogation of the Council and should refrain from filibustering to obstruct the proceedings on certain items of business.

29. Ms Audrey EU said that she shared the view that it was incumbent upon Members to complete the legislative process of all Government bills and motions before the prorogation of the Council. Noting from the updated plan of Council business prepared by the Secretariat that the proposed resolution relating to the re-organization of the Government Secretariat would not be dealt with until the Council meeting of 4 July 2012 at the earliest, she considered it doubtful whether the proceedings on the proposed resolution could be completed before the prorogation of the Council. She sought clarification on whether the re-organization proposals could be implemented only upon both the approval by FC of the relevant financial proposals and the passage of the proposed resolution by LegCo.

30. The Chairman requested the Legal Service Division to include the information sought by Ms Audrey EU in its paper to Members.

31. Mrs Sophie LEUNG considered it important for Members to complete the legislative process of all Government bills and motions before 18 July 2012; otherwise their efforts in scrutinizing the bills and motions would be wasted. In her view, if the situation so warranted, Members should consider continuing the Council meetings overnight to complete their work. She considered that all items of business should be transacted according to their order and did not agree to any proposed adjustment of order which might trigger arguments among Members over the priority of business.

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32. The Chairman said that HC might defer its decision on whether or not to hold the Council meetings overnight having regard to the progress of the Council. She gathered from the discussion so far that Members were generally of the view that efforts should be made to complete the legislative process of all Government bills and motions as far as practicable.

33. Ms LEE Fung-ying said that it was difficult for Members to come to a consensus at this HC meeting on the days of the remaining Council meetings. She suggested that the Secretariat should consult Members after the meeting on their availability for attending the Council meetings on the proposed dates. As regards the order for resuming the Second Reading debates on Bills, she shared the view that it would be up to the Administration to decide on the need to change their order. Nevertheless, she agreed on the need to accord priority to bills and motions which were time critical. She stressed that Members were accountable to the public on the work of LegCo and should make their best endeavour to complete the proceedings on all Government bills and motions before the prorogation of the Council.

34. Mr LEE Wing-tat said that he did not support the proposal for changing the oral questions scheduled for the remaining three Council meetings to written questions. While appreciating the rationale behind Mr Ronny TONG's view that personal considerations should not be taken into account in determining the order of Council business, he remained of the view that the Second Reading debate on the Residential Properties (First-hand Sales) Bill should be resumed before that on the Companies Bill.

35. Ms Emily LAU said that she was supportive of the suggestion of resuming the Second Reading debate on the Residential Properties (First-hand Sales) Bill first. Irrespective of Members' views, it would be for the Administration to decide whether or not to change the order. Given the consensual view of Members that efforts should be made to complete the legislative process of all Government bills and motions, arrangements should be made for providing more time slots for continuation of the Council meetings to enable completion of all the Council business. She did not mind continuing the Council meetings overnight if necessary.

36. Mr Jeffrey LAM suggested that the Secretariat should consult Members after the meeting on their availability for the Council meetings, and the President should make a decision based on Members' returns. He shared the view on the importance for Members to complete the

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proceedings on all the bills and motions with legislative effect before the Council was to stand prorogued.

37. Mr KAM Nai-wai was concerned whether there would be any legal implications should the motion debates on the reports of the Subcommittee to study issues relating to Lehman Brothers related minibonds and the Select Committee to study issues relating to the West Kowloon Reclamation Concept Plan Competition not be held before the Council's prorogation on 18 July 2012.

38. At the invitation of the Chairman, LA said that the motions on the reports of the committees were not to seek LegCo's endorsement of the reports which had been/would be tabled at the relevant Council meetings. The holding or otherwise of the debates would not have any implications on the legal status of the reports.

39. Dr Margaret NG recalled that in June 1997, some Council meetings lasted overnight in order to complete all the Council business by 30 June 1997. Members should be prepared to do the same on this occasion. Dr NG further said that some Members had waited a long time for the allocation of an oral question slot. She considered it inappropriate for HC to recommend changing all oral questions scheduled for the upcoming Council meetings into written ones.

40. The Chairman said that having regard to Members' views, the proposal for changing the oral questions into written ones should not be pursued.

41. Mr LEUNG Kwok-hung was of the view that the remaining Council meetings should only deal with those items of business which must be dealt with within the current term of LegCo, such as the bills which had been studied by the relevant Bills Committee for many years, and all other business should be left to the Fifth LegCo. In his view, the proposed resolution relating to the proposed re-organization of the Government Secretariat should be accorded the lowest priority. He reiterated his view that doctors and psychologists should be engaged to stand by during the upcoming Council meetings.

42. Mr TAM Yiu-chung said that he had mentioned that Members belonging to DAB would have difficulties in attending Council meetings during certain time slots because some Members made frequent requests for the counting of the quorum and he hoped to avoid the adjournment of the Council meeting due to a lack of quorum. He added that Members belonging to DAB did not mind the Council meetings continuing overnight if necessary.

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43. Mr CHAN Kam-lam appealed to Members belonging to different political parties and groupings to be concise in their speeches at Council meetings to save time. In his view, the valedictory motion should not be moved and the farewell dinner should not be held on 17 July 2012 should Members not be able to complete all the business on the Agenda of the Council. He further said that while he did not object to the Chairman relaying to CS Members' view that the Second Reading debate on the Residential Properties (First-hand Sales) Bill be resumed ahead of the Companies Bill, it was for the Administration to decide the order for the resumption of the Second Reading debates on Government bills.

44. Concluding the discussions, the Chairman said that she would convey to CS Members' view on the order for resumption of the Residential Properties (First-hand Sales) Bill. She requested the Secretariat to update the plan on Council business having regard to the progress of the Council meetings and ascertain Members' availability for the proposed dates of the remaining Council meetings for the President's consideration.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 15 June 2012 and tabled in Council on 20 June 2012

(LC Paper No. LS 82/11-12)

45. The Chairman said that two items of subsidiary legislation, namely, the Declaration of Increase in Pensions Notice 2012 (L.N. 105) and the Widows and Orphans Pension (Increase) Notice 2012 (L.N. 106), were gazetted on 15 June 2012 and tabled in the Council on 20 June 2012.

46. Members did not raise any queries on these two items of subsidiary legislation.

47. The Chairman reminded Members that the deadline for amending the subsidiary legislation was the second meeting of LegCo in the next session.

IV. Further business for the Council meeting of 27 June 2012

Questions

(LC Paper No. CB(3) 937/11-12)

48. The Chairman said that Mr Vincent FANG and Mr KAM Nai-wai had replaced their oral questions.

V. Business for the Council meeting of 4 July 2012

(a) Questions

(LC Paper No. CB(3) 936/11-12)

49. 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

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

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

Supplementary Appropriation (2011-2012) Bill

51. The Chairman said that at the last HC meeting, Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(d) Government motions

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

(e) Members' motions

(i) Motion on "Report of the Subcommittee on Improving Barrier Free Access and Facilities for Persons with Disabilities"

(Wording of the motion issued vide LC Paper No. CB(3) 920/11-12 dated 15 June 2012.)

53. The Chairman said that at the HC meeting on 8 June 2012, Members agreed to the priority allocation of a debate slot to Mr WONG Sing-chi, the Chairman of the Subcommittee, for moving a motion on its report at the Council meeting of 4 July 2012.

(ii) Motion to be moved by Dr Hon Samson TAM

54. The Chairman said that the subject of the motion to be moved by Dr Samson TAM was "Actively implementing the Mainland and Hong Kong Closer Economic Partnership Arrangement and the relevant new measures to promote the development of new industries in Hong Kong".

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55. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Tuesday, 26 June 2012.

Report on study of subsidiary legislation

56. The Chairman invited Members to note the list containing one item of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 4 July 2012. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 26 June 2012.

VI. Report of Bills Committees and subcommittees

(a) Report of the Bills Committee on Inland Revenue (Amendment) Bill 2012

57. Mr James TO, Chairman of the Bills Committee, gave a verbal report on the deliberations of the Bills Committee. He said that the Bills Committee had held two meetings with the Administration and was supportive of the tax concessionary measures introduced by the Bill.

58. Regarding the proposed extension of entitlement period for home loan interest ("HLI") deduction from 10 years to 15 years, Mr James TO said that the Bills Committee had examined how the drafting of the relevant provision could be improved for clarity. Members had also examined the implications including the estimated loss in tax revenue if the proposed extension of the entitlement years for HLI deduction could be given retrospective effect. Members had enquired whether the proposed extension could be given retrospective effect so that those homeowners who had used up their 10-year entitlement before the year of assessment 2011-2012 could apply for HLI deduction retrospectively (i.e. for the four years of assessment from 2008-2009 to 2011-2012). The Administration had advised that the proposal of giving retrospective effect would cause reduction in Government revenue.

59. Mr James TO further said that he would consider moving Committee Stage amendments ("CSAs") to the Bill to give retrospective effect to the proposed additional years for HLI deduction. The Bills Committee supported the resumption of Second Reading debate on the Bill at the Council meeting of 11 July 2012.

60. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Saturday, 30 June 2012. A written report of the Bills Committee would be provided later.

(b) Report of the Subcommittee on Genetically Modified Organisms (Control of Release) (Exemption) Notice

(LC Paper No. CB(1) 2218/11-12)

61. Mr WONG Yung-kan reported on the work of the Subcommittee on behalf of its Chairman, Mr WONG Ting-kwong, who had left the meeting. He said that the objectives of the Exemption Notice were to exempt genetically modified ("GM") papaya and any genetically modified organism ("GMO") that was contained in a veterinary vaccine from the application of section 5 of the Genetically Modified Organisms (Control of Release) Ordinance (Cap. 607) ("the Ordinance"); and two varieties of GM papaya and any GMO that was contained in a veterinary vaccine from the application of section 7 of the Ordinance.

62. Mr WONG Yung-kan further said that to allow sufficient time for scrutiny of the Exemption Notice, the Subcommittee agreed that its Chairman should move a motion at the Council meeting of 23 May 2012 to extend the period for amending the Exemption Notice from 30 May to 20 June 2012. However, the motion had not been dealt with at the Council meetings that commenced on 23 and 30 May 2012 owing to the heavy agenda for those Council meetings. The 28-day period for amendment under the negative vetting procedure as specified in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) had expired without being extended. Hence, even though the majority of deputations invited to give views to the Subcommittee were opposed to the proposed exemption of GM papaya, it was not technically feasible for the Subcommittee or any Member to amend the Exemption Notice. Noting from the Administration that the Agriculture, Fisheries and Conservation Department would carry out a review of the exemption of GM papaya and live recombinant veterinary vaccines in three years' time, some members suggested that the subject matter should be referred to the Panel on Environmental Affairs for follow-up.

(c) Report of the Subcommittee on Pesticide Residues in Food Regulation

(LC Paper No. CB(2) 2396/11-12)

63. Mr Fred LI, Chairman of the Subcommittee, reported that the Regulation aimed to better protect health; facilitate effective regulation of pesticide residues in food; and promote harmonization between local and international standards.

64. Mr Fred LI further reported that the Subcommittee had held three meetings and had met with various organizations. The Subcommittee had scrutinized the provisions of the Regulation in detail. The major

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concerns raised by members included how the lists of maximum residue limits, extraneous maximum residue limits and exempted pesticides were formulated; how tests on pesticide residue in food were conducted; and the implementation of grace period. He referred Members to the Subcommittee's report for details of its deliberations.

65. Mr Fred LI added that as the motion to extend the scrutiny period of the Regulation had not been dealt with at the Council meetings before the expiry of the 28-day scrutiny period, the deadline for amending the Regulation expired on 6 June 2012. The Subcommittee agreed that he, in his capacity as Chairman of the Subcommittee should, with the permission of the President, present its report to the Council at its meeting of 4 July 2012 and address the Council on the report.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 2395/11-12)

66. The Chairman informed Members that there were one Bills Committee, five subcommittees under House Committee (i.e. two subcommittees on subsidiary legislation, one subcommittee on policy issues and two subcommittees on other Council business) and six subcommittees under Panels in action.

VIII. Paper of the Committee on Members' Interests ("CMI") on proposed amendments to the registration requirements under Rule 83 of the Rules of Procedure to enhance transparency and accountability

(LC Paper No. CMI 45/11-12)

67. Mrs Sophie LEUNG, Chairman of CMI, said that in view of the rising public expectation of the conduct and propriety of LegCo Members, CMI had conducted a review of the requirements for the registration of Members' interests. Having regard to the relevant practices of the House of Commons of the Parliament of the United Kingdom and the Executive Council of Hong Kong, CMI proposed that the following changes, with details set out in paragraphs 3 to 5 of the paper, be made to the registration requirements under RoP 83 to enhance transparency and accountability -

- (a) the nature of work to which the remuneration related should be provided under "directorships", "remunerated employment, offices, etc." and "clients";

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- (b) the estimated amount/value of the sponsorship received by Members or their spouses arising out of the membership of the Council should be provided under "overseas visits";
- (c) more details on the location and usage of the land or property owned by Members (except for self-occupation) should be provided under "land and property";
- (d) a new category of "remunerated membership of boards, committees or other organizations" should be added; and
- (e) the Registration Form on Members' Interests ("Registration Form") should be made a part of RoP.

68. Mrs Sophie LEUNG further said that CMI also proposed that Members be required to provide dates of changes to their registrable interests of "directorships", "remunerated employment, offices, etc.", "clients", "shareholdings" and "land and property" in the Registration Form, so as to better enable the public to monitor whether the requirement to furnish to the Clerk to LegCo within 14 days particulars of any change in the above registrable interests was complied with by Members.

69. Mrs Sophie LEUNG added that CMI had consulted all Members through a questionnaire on the proposed changes to registration of Members' interests. While the majority of Members agreed to or had no comment on the proposed changes, some other Members had strong views against some of the proposals. To effect the changes proposed by CMI, it was necessary to amend RoP 83(1), (2), (3) and (5), with consequential amendments to be made to RoP 4(1) and the Schedule to RoP. CMI had sought the views of the Committee on Rules of Procedure ("CRoP") on the proposed amendments to RoP as set out in the Appendix to the paper. CRoP was supportive of CMI's proposals.

70. Mrs Sophie LEUNG said that subject to HC's views, she would move a motion, in her capacity as Chairman of CMI, at the Council meeting of 11 July 2012 to amend RoP for implementation of the proposed changes with effect from the Fifth LegCo.

71. Mr Andrew LEUNG said that some Members objected to the changes proposed by CMI. He pointed out that there would be difficulties in implementing the requirement for Members to furnish to the Clerk to LegCo within 14 days of any change to their registrable interests. Citing his personal experience as a non-executive director of a bank, he said that the appointment as a director needed the approval of

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Hong Kong Monetary Authority ("HKMA") and it was beyond his control as to when approval was given by HKMA. Given the practical difficulties for Members to comply with the new registration requirements, he considered that the motion seeking to effect CMI's proposed amendments to RoP should not be moved at the Council meeting of 11 July 2012.

72. Mr IP Kwok-him said that Members belonging to DAB supported in principle the enhancement of the transparency of the registration system. Nevertheless, they shared Mr Andrew LEUNG's concern about the practical difficulties for Members to comply with the new registration requirements, in particular those concerning the provision of information on the nature of work to which the remuneration related and the estimated amount/value of the sponsorship received by Members or their spouses as stated in paragraph 3(a) and (b) of the paper. Members belonging to DAB considered it more appropriate for the matter to be further studied by Members of the Fifth LegCo, instead of effecting the proposed changes at the present stage.

73. Ms Emily LAU said that various proposals for enhancing the transparency of the system of registration of Members' interests had been discussed by LegCo since 1997, but they had not been implemented due to the divided views of Members. CMI had made reference to overseas practice in coming up with its present proposals. In her view, the Chairman of CMI should move a motion at the Council meeting of 11 July 2012 for Members to debate whether to amend RoP to implement the proposed changes with effect from the Fifth LegCo.

74. The Chairman said that according to her understanding, the percentages of Members supporting and objecting to CMI's proposals were very close.

75. As there were divided views among Members, the Chairman put to vote the proposal of CMI for its Chairman to move a motion at the Council meeting of 11 July 2012 to amend the registration requirements under RoP 83 (Registration of Interests). Ms Emily LAU requested a division.

The following Members voted in favour of the proposal:

Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Ms Emily LAU, Mr TAM Yiu-chung, Ms LI Fung-ying, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Dr Joseph LEE, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr CHAN Kin-por,

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Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mr Alan LEONG, Miss Tanya CHAN and Mr Albert CHAN.
(26 Members)

The following Members voted against the proposal:

Ir Dr Raymond HO, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM and Mr Andrew LEUNG.
(6 Members)

76. The Chairman declared that 26 Members voted for, six Members voted against, the proposal and no Member abstained. The proposal was supported.

77. As it was already 4:03 pm, the Chairman said that the HC meeting had to be suspended and would be resumed after the first FC meeting at around 6:00 pm to deal with the unfinished business on the agenda.

(The meeting was suspended at 4:03 pm and resumed at 6:05 pm.)

IX. Paper of the Committee on Rules of Procedure

Provision of slots for moving motions with no legislative effect in the Fifth Legislative Council

(LC Paper No. CROP 57/11-12)

78. Mr TAM Yiu-chung, Chairman of CRoP, said that with the increase in the number of Members in the Fifth LegCo from 60 to 70, all Members had been earlier consulted on the proposed arrangements for the provision of slots for moving motion with no legislative effect at Council meetings in the Fifth LegCo. The outcome of the consultation was that the majority of Members considered that the number of motion debate slots with no legislative effect for each regular Council meeting should be maintained at two and allocation of these slots should be counted on a term basis (about 216 slots shared by 69 Members in a four-year term).

79. Mr TAM Yiu-chung further said that the LegCo Secretariat had consulted all Members on the following changes in connection with allocation of debate slots -

- (a) slots would be allocated in accordance with the following descending order of priority:

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- (i) a Member who had not been allocated a debate slot in the term and had been unsuccessful for the highest number of times in the previous two or more applications;
 - (ii) a Member who had not been allocated a debate slot in the term;
 - (iii) a Member who had been allocated the fewest number of debate slot(s) in the term and had been unsuccessful for the highest number of times in the previous two or more applications; and
 - (iv) a Member who had been allocated the fewest number of debate slot(s) in the term;
- (b) if the number of Members who were of equal priority for allocation exceeded the number of slot(s) available for allocation, a ballot would be conducted by the Chairman of HC for determining the allocation of the debate slot(s); and
- (c) where a Member who had been unsuccessful in his application for a debate slot for a Council meeting, he might use the debate slot allocated to another Member for that meeting, if a request for transfer of the slot was made and agreed to by that other Member 12 clear days before the date of that meeting, and he must not previously been allocated four or more debate slots in a term.

The outcome of the consultation was that a majority of Members agreed to the above changes.

80. Mr TAM Yiu-chung added that for the purpose of implementing the above changes, it was necessary to amend the House Rules ("HR"). Subject to Members' views, the relevant rules of HR would be amended accordingly for implementation in the Fifth LegCo.

81. Members agreed to CRoP's proposed amendments to HR for implementation in the Fifth LegCo.

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X. Proposal of Hon LEE Wing-tat to seek the Legislative Council's authorization to empower the Panel on Development to exercise the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance to order the Secretary for Development to produce information in relation to the land exchange arrangement involving the Ocean Terminal Lot

(Letter dated 19 June 2012 from Hon LEE Wing-tat to the Chairman of the House Committee (LC Paper No. CB(2) 2412/11-12(01)))

82. Mr LEE Wing-tat, said that the Administration's agreement with a developer on the lease renewal for the Ocean Terminal Lot by way of an in-situ land exchange at a land premium of \$7.9 billion had raised public concern and query as to whether open tender should be adopted for leasing out the lot. The Panel on Development ("Dev Panel") would discuss the matter at its meeting scheduled for 28 June 2012 and he had written to the Panel Chairman requesting the Development Bureau and the Lands Department to provide a list of information relating to the lease renewal and land exchange. As he was worried that the Administration would refuse to provide the requisite information, he had in parallel given notice to move a motion for seeking the Council's authorization to empower the Dev Panel to exercise the powers under section 9(1) of the P&P Ordinance to order the production of the relevant information. He referred to the case concerning the development of 39 Conduit Road where the Administration had initially refused his request for provision of relevant information. Subsequently, he had moved a motion at the Council meeting seeking to authorize the Panel on Housing to exercise the powers under the P&P Ordinance to order the production of the information. Although the motion had been voted down, the Administration had subsequently provided the requisite information. He appealed to Members to support his proposal. Should HC not support his proposal, he would move in his individual capacity a motion at the Council meeting of 11 July 2012 to empower the Dev Panel to exercise the powers conferred under the P&P Ordinance to order the production of information relating to the lease renewal and land exchange.

83. Mr IP Kwok-him said that Members belonging to DAB noted that an oral question was raised on the matter at the Council meeting of 20 June 2012 and the Dev Panel was scheduled to discuss it in the following week. The Administration had so far not declined the provision of the information sought by Mr LEE Wing-tat. Members belonging to DAB were of the view that the matter should be followed up by the Panel first and considered it inappropriate to invoke the powers under the P&P Ordinance at the present stage. Members belonging to DAB objected to the proposal.

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84. Prof Patrick LAU, Chairman of Dev Panel, said that an oral question on the matter had been raised at the Council meeting. At the request of Mr LEE Wing-tat, the matter would be discussed at the Panel meeting to be held on 28 June 2012. He had spoken to the Secretary for Development, who had agreed to provide the requisite information as far as possible. He had also sought the views of relevant experts in the field who considered the terms of the in-situ land exchange reasonable, and the relevant information would be provided to Members. Given that the Administration had agreed to provide the requisite information, he hoped that the matter could be resolved at the Panel meeting without the need to seek the Council's authorization to invoke the powers under the P&P Ordinance.

85. In response to Prof Patrick LAU, the Chairman clarified that Mr LEE Wing-tat's proposal was to authorize the Dev Panel to exercise the powers under the P&P Ordinance, and not to appoint a subcommittee to follow up the matter.

86. Ir Dr Raymond HO said that he was a member of the Dev Panel. He noted that the matter had been scheduled for discussion at the Panel meeting to be held on 28 June 2012 and the Secretary for Development had agreed to provide the relevant information. The Panel meeting would provide a forum for detailed discussion of the matter. In his view, Members should consider the information provided by the Administration to the Panel first. Furthermore, given the time constraint, he considered it more practical for the Panel to follow up the matter instead of invoking the powers under the P&P Ordinance.

87. Mr Abraham SHEK declared that the developer concerned was an elector of his functional constituency. He did not support Mr LEE Wing-tat's proposal. In his view, the powers under the P&P Ordinance should not be invoked for the purpose of intimidating the Administration to provide information. Members should discuss the matter with the Administration on the basis of mutual trust at the meeting of the Dev Panel scheduled for 28 June 2012 and consider the information provided by the Administration to the Panel before deciding on the need for further action. He appreciated the concerns about making public contracts with commercial corporations and believed that the Administration would provide information as far as practicable to address the public queries on the matter. He added that there was established mechanism for determining the premium for such deals which were worked out by relevant experts.

88. Mr LEE Wing-tat said that he agreed that the powers under the P&P Ordinance should be exercised prudently. However, given the

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impending prorogation of the Council and in view of his experience concerning the development of 39 Conduit Road, he had no choice but to resort to the invocation of the powers under the P&P Ordinance. Should the Administration provide all the requisite information to the Panel, he would withdraw his notice for moving the motion under the P&P Ordinance. He requested that his proposal be put to vote.

89. The Chairman put to vote the proposal of Mr LEE Wing-tat for seeking LegCo's authorization to empower the Dev Panel to exercise the powers under section 9(1) of the P&P Ordinance to order the Secretary for Development to produce information in relation to the land exchange arrangement involving the Ocean Terminal Lot. Mr LEE Wing-tat requested a division.

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, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr Alan LEONG, Miss Tanya CHAN and Mr WONG Yuk-man.
(18 Members)

The following Members voted against the proposal:

Ir Dr Raymond HO, 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 Tommy CHEUNG, Mr WONG Kwok-hing, Mr Jeffrey LAM, 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, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou and Dr Samson TAM.
(26 Members)

90. The Chairman declared that 18 Members voted for, 26 Members voted against, the proposal and no Member abstained. Mr LEE Wing-tat's proposal was negated.

91. There being no other business, the meeting ended at 6:28 pm.