

立法會
Legislative Council

LC Paper No. CB(2)1946/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/SS/2/11

**Subcommittee on Places of Public Entertainment
(Exemption) (Amendment) Order 2011**

**Minutes of meeting
held on Thursday, 9 February 2012, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Cyd HO Sau-lan (Chairman)
Dr Hon Margaret NG
Hon Emily LAU Wai-hing, JP
Hon LEE Wing-tat

Member absent : Hon IP Kwok-him, GBS, JP

Public Officers attending : Item I

Miss Winnie TSE
Principal Assistant Secretary for Home Affairs
(Civic Affairs)³

Ms YEUNG Yuk-ip, Rita
Senior Superintendent (Licensing)
Food and Environmental Hygiene Department

Ms YAU Sau-ling, Cindy
Senior Assistant Law Officer (Civil Law)
Department of Justice

Action

- Attendance by invitation** : Item I
Legislative Council Secretariat
- Mr Jimmy MA, JP
Legal Adviser
- Clerk in attendance** : Mr Thomas WONG
Chief Council Secretary (2)2
- Staff in attendance** : Ms Clara TAM
Assistant Legal Adviser 9
- Mr Raymond LAM
Senior Council Secretary (2)2
- Miss Jasmine TAM
Council Secretary (2)2
- Miss Emma CHEUNG
Legislative Assistant (2)2

Action

I. Meeting with the Administration

LC Paper No. CB(2)1000/11-12(01) -- Administration's paper on factual information requested by members at the meeting of the Subcommittee on Places of Public Entertainment (Exemption) (Amendment) Order 2011 ("the Subcommittee") on 2 February 2012

LC Paper No. CB(2)1009/11-12(01) -- Administration's response to issues raised at the Subcommittee meeting on 2 February 2012

Action

The Subcommittee deliberated (index of proceedings at **Annex**).

Discussion

Scope of public entertainment

2. Dr Margaret NG noted from paragraph 13 of the reasons for verdict relating to the case of HKSAR v LI Yiu-kee of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China ("HKASPDMC") in Annex 3 to the Administration's paper (LC Paper No. CB(2)1000/11-12(01)) that section 4(1) of the Places of Public Entertainment Ordinance (Cap. 172) ("PPEO") was targeted at activity organizers instead of the audience or passers-by. She asked whether the Administration could confirm from a policy perspective that only organizers of public entertainment activities or operators of places of public entertainment, instead of the audience, were subject to the regulation of PPEO. Principal Assistant Secretary for Home Affairs (Civic Affairs) 3 ("PAS(CA)3") advised that it was the intent of PPEO to regulate activity organizers instead of the audience.

3. The Chairman noted from Annex 2 to the Administration's paper (LC Paper No. CB(2)1000/11-12(01)) that the licensing authority had rejected an application for a licence granted under PPEO ("PPE licence") for conducting Chinese theatrical performances on the grounds of the Lands Department's objection to temporary occupation of government land. She expressed concern about whether the licensing authority had selectively rejected applications for PPE licences, as she noted that many Chinese theatrical performances had been conducted on government land.

4. The Chairman advised that the West Kowloon Cultural District Authority ("WKCDA") had assured members at meetings of the Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project that street performances would be encouraged in the West Kowloon Cultural District ("WKCD"), although there would be some limits to the use of public spaces to ensure public safety. She called on the Administration to communicate with WKCDA on the applicability of PPEO to activities which might fall within Schedule 1 to PPEO and would be conducted in the streets or public spaces of WKCD.

5. The Chairman and Dr Margaret NG also expressed concern about why the places or halls in universities for the delivery of lectures and speeches needed to be subject to the regulation of PPEO for public safety purposes, as they should have already been in compliance with the relevant

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statutory fire and building safety standards. Dr Margaret NG sought clarification on whether ordinary seminars or talks which were conducted at places within a university campus and open to the general public fell within the scope of Schedule 1 to PPEO.

6. PAS(CA)3 advised that the definitions of "public entertainment" and "place of public entertainment" had been provided in PPEO. In universities, seminars and talks at which speeches and lectures were conducted and to which the general public was admitted might fall under the regulation of PPEO. Fire and building safety standards were only some of the licensing conditions that needed to be complied with in a place of public entertainment under PPEO.

Enforcement of PPEO

7. The Chairman and Dr Margaret NG sought clarification on whether the Administration would take enforcement action against persons who kept or used the places in universities for conducting seminars and talks to which the general public was admitted without a PPE licence. PAS(CA)3 responded that the conduct of such seminars and talks without a PPE licence might be inconsistent with the Administration's objective of protecting public safety. However, whether this would constitute a contravention of PPEO would depend on the circumstances of the case concerned.

8. Noting that the delivery of lectures and speeches at seminars or talks attended by the general public was common in a university, Dr Margaret NG asked whether the responsible authority of the university should apply for a permanent PPE licence covering all such activities throughout the university or whether the event organizer should apply for a temporary PPE licence. PAS(CA)3 and Senior Superintendent (Licensing), Food and Environmental Hygiene Department advised that the responsible authority of the university could apply for a permanent PPE licence covering all such activities at the places concerned. Alternatively, the organizer of an event could apply for a temporary PPE licence for the event concerned.

9. Referring to paragraphs 12 to 14 of the Administration's paper (LC Paper CB(2)1009/11-12(01)), the Chairman sought clarification on whether a candidate or a person who had declared intention to run in an election would contravene section 4(1) of PPEO, if he conducted without a PPE licence any activity (such as the delivery of speech) falling within the scope of Schedule 1 to PPEO during the election period. PAS(CA)3

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advised that whether a case was compliant would depend on its specific circumstances, whether the activity conducted fell within the meaning of public entertainment as defined in PPEO and whether it involved public safety concerns. As there was a case relating to PPEO under judicial review, the Administration considered it inappropriate to further comment on the issue.

Review of PPEO

10. Ms Emily LAU asked whether the Administration would undertake to introduce legislative amendments to PPEO to narrow down the current wide scope of "public entertainment" and "place of public entertainment" under PPEO, which, in her view, had left room for the Government to prosecute selectively. The Chairman considered that the Administration should accede to members' request to amend PPEO and should not merely exempt more places from the regulation of PPEO.

11. PAS(CA)3 advised that the Administration would consider members' concerns and suggestions but could not arrive at a decision at the present stage on whether to amend PPEO. It was inappropriate for the Administration to undertake in haste during the examination of a piece of subsidiary legislation to introduce any amendment to the principal legislation.

Admin 12. Ms Emily LAU and the Chairman called on the Administration to revert to the Subcommittee at the next meeting to be held on 13 February 2012 on whether it would amend PPEO.

Follow-up actions

Admin 13. Members requested the Administration to respond in writing to the following -

- (a) the applicability of PPEO to arts and cultural performances to be conducted in the streets and public spaces in WKCD;
- (b) in connection with paragraphs 12 to 14 of the Administration's paper (LC Paper No. CB(2)1009/11-12(01)), further clarification on whether a candidate or a person who had declared intention to run in an election would contravene section 4 of PPEO if he or she conducted without a PPE licence any activity falling within the scope of Schedule 1 to PPEO during the election period;

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- (c) whether to review PPEO and in particular whether legislative amendments would be introduced to narrow down the scope of "public entertainment" and "place of public entertainment" under PPEO to exclude story-telling, lecture and exhibition at streets and schools, and public meetings and public processions; and
- (d) details on the judicial review case relating to PPEO mentioned by the Administration at the meeting.

II. Next meeting

- 14. Members noted that the next meeting would be held on Monday, 13 February 2012, at 8:30 am.
- 15. There being no other business, the meeting ended at 5:35 pm.

Council Business Division 2
Legislative Council Secretariat
9 May 2012

**Proceedings of meeting of the
Subcommittee on Places of Public Entertainment
(Exemption) (Amendment) Order 2011
on Thursday, 9 February 2012, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject	Action required
000101 - 000630	Chairman Admin	The Administration's briefing on its paper for the meeting (LC Paper No. CB(2)1000/11-12(01)).	
000631 - 001218	Chairman Admin	<p>Chairman's concern about whether the licensing authority had selectively rejected an application for conducting Chinese theatrical performances on Government land in 2007 (Annex 2 to LC Paper No. CB(2)1000/11-12(01)).</p> <p>Chairman's request for the Administration to provide a written response on the applicability of the Places of Public Entertainment Ordinance (Cap. 172) ("PPEO") to cultural performances to be conducted in the streets and public spaces in the West Kowloon Cultural District ("WKCD").</p>	Admin to follow up (paragraph 13(a) of the minutes)
001219 - 004549	Dr Margaret NG Chairman Admin	<p>Dr Margaret NG's questions and the Administration's response on -</p> <p>(a) whether the Administration could confirm from a policy perspective that only organizers of public entertainment activities or operators of places of public entertainment, instead of the audience, were subject to the regulation of PPEO;</p> <p>(b) whether ordinary seminars or talks conducted at places within a university campus and open to the general public fell under the scope of Schedule 1 to PPEO;</p> <p>(c) why the places or halls in universities for the delivery of lectures and speeches needed to be subject to the regulation of PPEO for public safety purposes, as they should have already</p>	

Time marker	Speaker	Subject	Action required
		<p>been in compliance with the relevant statutory fire and building safety standards; and</p> <p>(d) whether the Administration would take enforcement action against persons who kept or used the places in universities for conducting seminars and talks to which the general public was admitted without a licence issued under PPEO ("PPE licence").</p>	
004550 - 010337	Ms Emily LAU Chairman Admin	<p>Chairman's request for the Administration to further clarify, in connection with paragraphs 12 to 14 of the Administration's paper (LC Paper No. CB(2)1009/11-12(01)), on whether a candidate or a person who had declared intention to run in an election would contravene section 4 of PPEO if he or she conducted without a PPE licence any activity falling within the scope of Schedule 1 to PPEO during the election period.</p> <p>Request from the Chairman and Ms Emily LAU for the Administration to provide a written response on whether it would review PPEO and, in particular, whether legislative amendments would be introduced to narrow down the scope of "public entertainment" and "place of public entertainment" under PPEO to exclude story-telling, lecture and exhibition at streets and schools, and public meetings and public processions.</p> <p>Chairman's request for details on a judicial review case relating to PPEO.</p>	<p>Admin to follow up (paragraph 13(b) of the minutes)</p> <p>Admin to follow up (paragraphs 12 and 13(c) of the minutes)</p> <p>Admin to follow up (paragraph 13(d) of the minutes)</p>