

立法會
Legislative Council

LC Paper No. CB(2)1055/12-13

Ref : CB2/H/5/12

House Committee of the Legislative Council

**Minutes of the 23rd meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 26 April 2013**

Members present:

Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)

Hon Ronny TONG Ka-wah, SC (Deputy Chairman)

Hon James TO Kun-sun

Hon CHAN Kam-lam, SBS, JP

Hon LEUNG Yiu-chung

Dr 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 Tommy CHEUNG Yu-yan, SBS, JP

Hon Frederick FUNG Kin-kee, SBS, JP

Hon Vincent FANG Kang, SBS, JP

Hon WONG Kwok-hing, MH

Dr Hon Joseph LEE Kok-long, SBS, JP

Hon Jeffrey LAM Kin-fung, GBS, JP

Hon WONG Ting-kwong, SBS, JP

Hon Cyd HO Sau-lan

Hon Starry LEE Wai-king, JP

Dr Hon LAM Tai-fai, SBS, JP

Hon CHAN Hak-kan, JP

Hon CHAN Kin-por, BBS, JP

Dr Hon Priscilla LEUNG Mei-fun, JP

Hon CHEUNG Kwok-che

Hon WONG Kwok-kin, BBS

Hon IP Kwok-him, GBS, JP

Hon Mrs Regina IP LAU Suk-yea, GBS, JP

Hon Paul TSE Wai-chun, JP

Hon Alan LEONG Kah-kit, SC

Hon LEUNG Kwok-hung

Hon Albert CHAN Wai-yip
Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon CHAN Han-pan
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members absent:

Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Dr Hon LEUNG Ka-lau
Hon Gary FAN Kwok-wai
Hon Kenneth LEUNG

Clerk in attendance :

Miss Flora TAI

Clerk to the House Committee

Staff in attendance :

Mr Kenneth CHEN, SBS	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mrs Justina LAM	Deputy Secretary General
Mr Andy LAU	Assistant Secretary General 1
Miss Odelia LEUNG	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
Miss Erin TSANG	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Mr Arthur LEUNG	Chief Council Secretary (3)3
Mr Bonny LOO	Assistant Legal Adviser 3
Miss Carrie WONG	Assistant Legal Adviser 4
Ms Wendy KAN	Assistant Legal Adviser 6
Ms Clara TAM	Assistant Legal Adviser 9
Miss Josephine SO	Senior Council Secretary (2)2
Mr Jove CHAN	Senior Council Secretary (2)6
Ms Judy TING	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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I. Confirmation of the minutes of the 22nd meeting held on 19 April 2013

(LC Paper No. CB(2)1027/12-13)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that he had not attended the meeting with CS. He invited the Deputy Chairman to report to Members on the meeting.

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3. The Deputy Chairman said that he had conveyed to CS Members' concern about the implementation of the Import and Export (General) (Amendment) Regulation 2013 in its original form, and their request for the Administration to make public the enhanced version of the operational guidelines issued to front-line law enforcement officers. He had also raised with CS that the Administration should introduce another subsidiary legislation to amend the definition of powdered formula within the current legislative session. CS had advised that she would relay Members' views to the Secretary for Food and Health ("SFH") who would follow up the matter with the Panel on Food Safety and Environmental Hygiene ("FSEH Panel").

4. Mr Alan LEONG, Chairman of FSEH Panel, said that he had written to SFH on 22 April 2013 on Members' concerns about the Amendment Regulation. The matter had been scheduled for discussion at the Panel meeting on 14 May 2013 and all Members had been invited to attend the meeting.

5. Referring to media reports on the irregularities in the expenses on entertainment, duty visits outside Hong Kong and giving of gifts during the term of office of the former Commissioner, Independent Commission Against Corruption ("ICAC"), Mr Timothy TONG Hin-ming, Ms Cyd HO considered it imperative for the Administration to clearly state its stance on the matter as soon as possible. Ms HO requested the Chairman to relay her view to CS.

6. The Chairman said that CS had spoken on the issues relating to ICAC during her speech at the resumption of the Second Reading debate on the Appropriation Bill 2013 at the Council meeting of 24 April 2013. He undertook to relay Ms Cyd HO's view to CS.

III. Business arising from previous Council meetings

(a) Legal Service Division reports on bills referred to the House Committee in accordance with Rule 54(4)

(i) **Arbitration (Amendment) Bill 2013** (*LC Paper No. LS45/12-13*)

7. At the invitation of the Chairman, Legal Adviser ("LA") said that the Bill sought to amend the Arbitration Ordinance (Cap. 609) to implement an arrangement concluded in January 2013 between Hong Kong and Macao for the reciprocal recognition and enforcement of arbitral awards, and update the Schedule to the Arbitration (Parties to

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New York Convention) Order (Cap. 609 sub. leg. A). The Panel on Administration of Justice and Legal Services had been consulted on 14 December 2012 and members in general supported the legislative proposals. LA added that the Legal Service Division ("LSD") was seeking clarification from the Administration regarding the legal and drafting aspects of the Bill.

8. Mr SIN Chung-kai considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. Mr SIN advised that Mr Albert HO agreed to join the proposed Bills Committee.

(ii) Merchant Shipping (Seafarers) (Amendment) Bill 2013
(*LC Paper No. LS44/12-13*)

9. At the invitation of the Chairman, LA said that the main object of the Bill was to amend the Merchant Shipping (Seafarers) Ordinance (Cap. 478) to implement certain requirements of the Maritime Labour Convention, 2006. The Bill proposed, among other things, to amend the definition of "seafarer" and certain empowering provisions to align with the requirements under the Convention. LA further advised that in view of the significance of the Bill in implementing the Convention, Members might consider setting up a Bills Committee to study the Bill.

10. Mr TANG Ka-piu considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. Mr TANG Ka-piu and Mr SIN Chung-kai agreed to join the proposed Bills Committee.

(iii) Betting Duty (Amendment) Bill 2013
(*LC Paper No. LS42/12-13*)

11. At the invitation of the Chairman, LA explained that the Bill sought to amend the Betting Duty Ordinance (Cap. 108) to abolish the duty for bets accepted outside Hong Kong in relation to the conduct of authorized betting on local horse races; and charge a duty at a flat rate of 72.5% on horse races held outside Hong Kong, subject to a guaranteed amount of duty of \$175 million per year during the three-year guarantee period. The Bill, if enacted, would come into operation on 1 September 2013. LA further advised that the Panel on Home Affairs had been consulted on the legislative proposals on 18 February 2013. While some Members expressed support for the proposals, some other Members expressed various concerns. In the light of the concerns raised at the Panel meeting, Members might consider studying the policy aspects of the Bill in detail. LA added that LSD was seeking clarification from the Administration on certain technical and drafting issues relating to the Bill.

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12. Mr James TO considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Mr James TO, Mr Tommy CHEUNG, Mr Frankie YICK, Mr WU Chi-wai and Mr LEUNG Che-cheung.

(iv) Inland Revenue (Amendment) Bill 2013
(LC Paper No. LS41/12-13)

13. At the invitation of the Chairman, LA said that the main purpose of the Bill was to amend Part 8 of the Inland Revenue Ordinance (Cap. 112) and the Inland Revenue (Disclosure of Information) Rules (Cap. 112 sub. leg. BI) to make further provisions to facilitate the collection and disclosure of tax information under arrangements made with the government of a territory outside Hong Kong. The Bill sought to enable Hong Kong to conclude standalone tax information exchange agreements without double taxation relief and expand the coverage of tax types for exchange of information for taxation purposes. It would come into operation on the day the enacted ordinance was published in the Gazette. LA further said that the Panel on Financial Affairs had been consulted on the legislative proposals on 5 November 2012 and 4 February 2013 and members had expressed various concerns. In view of the concerns raised by members of the Panel, Members might consider studying the policy aspects of the Bill in detail. LA added that LSD was seeking clarification from the Administration on certain technical and drafting issues relating to the Bill.

14. Mr James TO considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. Mr TO agreed to join the proposed Bills Committee.

(b) Legal Service Division report on subsidiary legislation gazetted on 19 April 2013 and tabled in Council on 24 April 2013
(LC Paper No. LS43/12-13)

15. At the invitation of the Chairman, LA said that seven items of subsidiary legislation were gazetted on 19 April 2013 and tabled in Council on 24 April 2013.

16. Regarding the Air Pollution Control (Amendment) Ordinance 1993 (Commencement) Notice 2013 (L.N. 60), LA explained that it had appointed 1 July 2013 as the day on which the part of section 33 of the Air Pollution Control (Amendment) Ordinance 1993 ("Amendment Ordinance") relating to "Paint Works" would come into operation.

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17. Ms Cyd HO said that the Panel on Environmental Affairs had not been consulted on the Commencement Notice. She expressed concern about the long time lapse between the enactment of the Amendment Ordinance in 1993 and the proposed commencement of the provisions on "Paint Works". She indicated that she would enquire with the relevant policy bureau and would liaise with LSD in this regard.

18. Members did not raise any questions on the other items of subsidiary legislation (i.e. L.N. 55 to L.N. 59, and L.N. 61).

19. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 22 May 2013, or 19 June 2013 if extended by a resolution of the Council.

IV. Business for the Council meeting of 8 May 2013

(a) **Questions**
(*LC Paper No. CB(3)507/12-13*)

20. The Chairman said that 22 written questions had been scheduled for the meeting.

Arrangement for questions to be raised at the Council meeting of 15 May 2013 and thereafter

21. The Chairman said that Members had noted at the last House Committee ("HC") meeting that in accordance with rule 7(e) of the House Rules, there would be no arrangement for Members to put oral questions to the Government at the Council meetings for debate on the Appropriation Bill and for the policy debate. The Chairman informed Members that as it was uncertain as to when all the legislative proceedings on the Appropriation Bill 2013 would be completed, the Secretariat would deal with applications for oral questions to be raised at the Council meeting of 15 May 2013 and thereafter according to the relevant arrangements for regular Council meetings.

22. The Chairman further said that in event that the Appropriation Bill 2013 had to be dealt with at the Council meeting of 15 May, there would be no oral question session at that Council meeting. Subject to the agreement of Members who had been allocated oral question slots at that meeting, their oral questions would be asked as written questions, and the Members concerned would not be considered as having been allocated oral question slots. For those Members who did not agree to change

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their oral questions to written questions, their oral questions would be deferred to the Council meeting immediately following the one at which the proceedings on the Appropriation Bill 2013 were completed. The same arrangement would be adopted for Council meetings after 15 May until the legislative proceedings on the Appropriation Bill 2013 had been completed. Members noted the above arrangement.

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

(i) Hong Kong Arts Development Council (Amendment) Bill 2013

(ii) Inland Revenue (Amendment) (No. 2) Bill 2013

(iii) Product Eco-responsibility (Amendment) Bill 2013

23. The Chairman said that the Administration had given notices to present the above three Bills to the Council on 8 May 2013. HC would consider these Bills at its meeting on 10 May 2013.

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

Pilotage (Amendment) Bill 2013

24. The Chairman informed Members that the Administration had given notice to resume the Second Reading debate on the above Bill at the Council meeting of 8 May 2013.

(d) Government motion

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

(e) Members' bills - First Reading and moving of Second Reading

Professional Accountants (Amendment) Bill 2013

26. The Chairman said that Mr Kenneth LEUNG had given notice to present the above Bill to the Council at its meeting of 8 May 2013. The Chairman informed Members that the Bill would receive its First Reading and Second Reading after all the Government Bills and Government motions on the Agenda of the Council meeting had been dealt with.

(f) **Members' motions**

- (i) **Motion on "Drug Formulary and drugs subsidy system"**
(Wording of the motion issued vide LC Paper No. CB(3) 520/12-13 dated 25 April 2013)
- (ii) **Motion on "Maintaining a business-friendly environment in Hong Kong"**
(Wording of the motion issued vide LC Paper No. CB(3) 516/12-13 dated 24 April 2013)

27. The Chairman said that the above two motions would be moved by Miss Alice MAK and Mr Jeffrey LAM respectively. The wording of the motions had been issued to Members.

28. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Tuesday, 30 April 2013.

V. The Chief Executive's Question and Answer Session on 9 May 2013

29. The Chairman said that the Chief Executive's Question and Answer Session would be held from 3:30 pm to 5:00 pm. The Chief Executive had indicated that he had no preference for Members to focus their questions on any topics.

VI. Position on Bills Committees and subcommittees
(LC Paper No. CB(2)1028/12-13)

30. The Chairman informed Members that as at 25 April 2013, there were eight Bills Committees, nine subcommittees under HC (i.e. five subcommittees on subsidiary legislation, one subcommittee on policy issues and three subcommittees on other Council business) and seven subcommittees on policy issues under Panels in action. Three subcommittees on policy issues under Panels were on the waiting list.

31. The Chairman further invited Members to note that the Bills Committee on Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Bill 2012 would have to work beyond three months since commencement of its work.

VII. Any other business

Voting procedure for the Appropriation Bill 2013

32. In response to Ms Emily LAU's enquiry on the voting procedure for the Appropriation Bill 2013 ("the Bill"), Secretary General ("SG") explained that after all the debates on the 710 amendments had been completed, the Committee of the whole Council would vote on the amendments and the relevant heads one by one in the order of the heads as they appeared in the Schedule to the Bill ("the Schedule"). Amendments to reduce the same head of expenditure had been placed on the Agenda of the Council in descending order of the magnitude of the reductions proposed and would be voted upon in that order. SG referred Members to Part III of the Script for the Council meeting of 24 April 2013 for details of the voting procedure.

33. Assistant Secretary General 3 ("ASG3") further elaborated on the voting procedure. She said that the order in which the amendments would be voted upon was set out in Appendix II to the Script. By way of illustration, she explained that a total of 134 amendments were proposed in respect of Head 21. After all these 134 amendments had been voted upon one by one, the question that the sum for that Head should stand part of the Schedule would be put to vote. The Committee of the whole Council would then proceed to vote on the 15 amendments in respect of the next head, i.e. Head 22, one by one, after which the question that the sum for that Head should stand part of the Schedule would be put to vote. When all the 710 amendments proposed in respect of 57 heads and the relevant heads had been disposed of, the question that the Schedule should stand part of the Bill would be put to vote. After that, the question that the two clauses of the Bill should stand part of the Bill would be put to vote, to be followed by voting on the motion for the Third Reading of the Bill. ASG3 added that there were a total of 773 times of voting in all the stages of the Bill. So far, two votes had been conducted on the Second Reading of the Bill and the sums for the 26 heads with no amendment standing part of the Schedule. Another 771 votes had yet to be conducted.

34. Ms Emily LAU enquired whether there would be arrangement for shortening the duration of the division bell in relation to the voting on the proposed amendments to Appropriation Bill 2013.

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35. The Chairman explained that if frequent divisions at a Council meeting were anticipated, it was the usual practice for the Chairman of HC to move a motion to shorten the duration of the division bell from five minutes to one minute in respect of further divisions at that meeting. The division bell would be shortened to one minute should such a motion be agreed to.

36. In response to the Chairman's enquiry, SG said that it was estimated that the voting on all the provisions of the Bill and the amendments would take some 20 hours should the duration of the division bell be shortened to one minute. The President had yet to give direction on the meeting arrangements (such as meal breaks) during voting in respect of the Bill. Ms Emily LAU requested the Secretariat to inform Members of the arrangements as soon as possible after they had been finalized.

37. Mr WONG Kwok-hing suggested that groups of amendments be put to a single vote so as to shorten the voting time required. Mr WONG further enquired about the contingency arrangement in the event that the Electronic Voting System ("EVS") broke down during voting in respect of the Appropriation Bill.

38. Mr Albert CHAN expressed objection to the suggestion of holding joint voting in respect of the Appropriation Bill.

39. The Chairman said that Conference Room 1 was the back-up venue for Council meetings. At the invitation of the Chairman, SG informed Members that the Secretariat had recently conducted tests on the EVS to ensure its stability in handling a large number of successive voting and its performances were satisfactory. SG further said that in the event that the EVS in the Chamber broke down during the Council meeting, the meeting would be suspended for restarting the system first. If the system could not be resumed within a short time, the venue for Council meeting would have to be changed to Conference Room 1 but about an hour would be required to prepare for holding the Council meeting.

40. There being no other business, the meeting ended at 2:56 pm.