

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1891/13-14

Ref : CB2/H/5/13

**House Committee of the Legislative Council**

**Minutes of the 29th meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 20 June 2014**

**Members present:**

Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)  
Hon Albert HO Chun-yan  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Hon LEUNG Yiu-chung  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, GBS, 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, BBS, MH  
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN  
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  
Hon CHEUNG Kwok-che  
Hon WONG Kwok-kin, BBS  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
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 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  
Hon CHAN Yuen-han, SBS, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Kenneth LEUNG  
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  
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 Ronny TONG Ka-wah, SC (Deputy Chairman)  
Hon LEE Cheuk-yan  
Dr Hon LAU Wong-fat, GBM, GBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Dr Hon LEUNG Ka-lau  
Hon LEUNG Kwok-hung  
Hon Frankie YICK Chi-ming  
Hon Gary FAN Kwok-wai  
Dr Hon Kenneth CHAN Ka-lok  
Hon TANG Ka-piu

**Clerk in attendance :**

Ms Amy YU Clerk to the House Committee

**Staff in attendance :**

Mr Kenneth CHEN, SBS	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mr Andy LAU	Assistant Secretary General 1
Miss Odelia LEUNG	Assistant Secretary General 3
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Stephen LAM	Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Ms Dora WAI	Principal Council Secretary 1
Ms Emily PANG	Chief Public Information Officer
Ms YUE Tin-po	Chief Council Secretary (4)3
Ms Debbie YAU	Chief Council Secretary (4)5
Mr Bonny LOO	Assistant Legal Adviser 3
Miss Josephine SO	Senior Council Secretary (2)6
Miss Jasmine TAM	Senior Council Secretary (2)8
Miss Karen LAI	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)7

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**I. Confirmation of the minutes of the 28th meeting held on 13 June 2014**

*(LC Paper No. CB(2)1828/13-14)*

The minutes were confirmed.

**II. Matters arising**

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

2. The Chairman said that CS had expressed concern about the violence which occurred outside the public entrances of the Legislative Council ("LegCo") Complex on 13 June 2014.

- (b) **District Court Equal Opportunities (Amendment) Rules 2014**  
(Paragraph 6 of the minutes of the 28th meeting held on 13 June 2014)  
(LC Paper No. LS64/13-14)  
[Previous paper:  
LC Paper No. LS60/13-14 issued vide LC Paper No.  
CB(2)1789/13-14 dated 12 June 2014]

3. At the invitation of the Chairman, Legal Adviser ("LA") said that Members noted at the last House Committee ("HC") meeting that the Legal Service Division ("LSD") was seeking clarification from the Judiciary Administration ("JA") on certain technical and drafting issues of the Rules and would, if necessary, issue a further report after considering JA's response. LA briefed Members on the salient issues and JA's response, details of which were set out in the further report.

4. Mr Dennis KWOK considered it necessary to form a subcommittee to study the Rules in detail. Members agreed. Mr James TO and Mr Dennis KWOK agreed to join the proposed Subcommittee.

5. The Chairman reminded Members that the deadline for amending the Rules was the Council meeting of 9 July 2014, or the first meeting of the next session if extended by a resolution of the Council.

### III. Business arising from previous Council meetings

- (a) **Legal Service Division report on bill referred to the House Committee in accordance with Rule 54(4)**

**Copyright (Amendment) Bill 2014**  
(LC Paper No. LS63/13-14)

6. At the invitation of the Chairman, LA briefed Members on the LSD report on the Bill.

7. Mr SIN Chung-kai 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 CHAN Kam-lam, Ms Emily LAU, Ms Cyd HO, Mr MA Fung-kwok, Mr Charles MOK, Mr SIN Chung-kai and Ms Claudia MO.

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**(b) Legal Service Division report on subsidiary legislation gazetted on 13 June 2014 and tabled in Council on 18 June 2014**

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*(LC Paper No. LS62/13-14)*

8. At the invitation of the Chairman, LA briefed Members on the LSD report on the four items of subsidiary legislation (L.N. 90 to L.N. 93) gazetted on 13 June 2014 and tabled in the Council on 18 June 2014.

9. Mr SIN Chung-kai considered it necessary to form a subcommittee to study the Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014 (L.N. 90) in detail. Members agreed. The following Members agreed to join the Subcommittee: Mr Vincent FANG (as advised by Mr James TIEN), Prof Joseph LEE, Miss Alice MAK and Dr Helena WONG (as advised by Mr SIN Chung-kai).

10. Members did not raise any questions on the other three items of subsidiary legislation (i.e. L.N. 91 to L.N. 93).

11. The Chairman reminded Members that the deadline for amending the four items of subsidiary legislation was the second Council meeting in the next session, or the first Council meeting after 21 days from that second Council meeting if extended by a resolution of the Council.

**IV. Further business for the Council meeting of 25 June 2014**

**(a) Questions**

*(LC Paper No. CB(3)731/13-14)*

12. The Chairman said that Dr Helena WONG had replaced her oral question.

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

**(i) Sex Discrimination (Amendment) Bill 2014**

**(ii) Private Columbaria Bill**

13. The Chairman informed Members that HC would consider the above two Bills at its next meeting on 27 June 2014.

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

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**Inland Revenue (Amendment) Bill 2014**

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

**V. Business for the Council meeting of 2 July 2014**

(a) **Questions**  
(*LC Paper No. CB(3)730/13-14*)

15. The Chairman said that 22 questions (six oral and 16 written) had been scheduled for the meeting.

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

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

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

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(i) **Supplementary Appropriation (2013-2014) Bill**

(ii) **Electoral Legislation (Miscellaneous Amendments) Bill 2014**

17. The Chairman said that at the last HC meeting, Members did not raise objection to the resumption of the Second Reading debates on the above two bills.

(d) **Government motion**

**Proposed resolution under section 54A of the Interpretation and General Clauses Ordinance to be moved by the Secretary for Commerce and Economic Development**

(*Wording of the proposed resolution issued vide LC Paper No. CB(3)723/13-14 dated 16 June 2014*)

18. The Chairman said that the Administration had given fresh notice to move the above proposed resolution at the Council meeting of 2 July 2014. The relevant Subcommittee would report to HC under agenda item VII(d).

(e) **Members' motions**

(i) **Motion on "Returning a happy childhood to students" to be moved by Hon Michael TIEN**

*(Wording of the motion issued vide LC Paper No. CB(3)622/13-14 dated 8 May 2014)*

(ii) **Motion on "Reorganising the Government's structure to improve its policy implementation" to be moved by Hon Kenneth LEUNG**

*(Wording of the motion issued vide LC Paper No. CB(3)625/13-14 dated 9 May 2014)*

19. Members noted that debates on the above two Members' motions would be held at the Council meeting of 2 July 2014.

Report of HC on Consideration of Subsidiary Legislation

20. The Chairman invited Members to note the list tabled at the meeting (LC Paper No. CB(3)737/13-14), which contained 11 items of subsidiary legislation the period for amendment of which would expire at the Council meeting of 2 July 2014. He reminded Members to indicate their intention by 5:00 pm on Tuesday, 24 June 2014, should they wish to speak on any of these items of subsidiary legislation.

**VI. The Chief Executive's Question and Answer Session on 3 July 2014**

21. The Chairman informed Members that the Chief Executive's Question and Answer Session would be held from 9:30 am to 11:00 am.

**VII. Reports of Bills Committees and subcommittees**

(a) **Report of the Bills Committee on Stamp Duty (Amendment) Bill 2013**

*(LC Paper No. CB(1)1630/13-14)*

22. Ms Starry LEE, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Ms LEE informed Members that the Administration had proposed to move Committee stage amendments ("CSAs") in relation to, among others, the modified ad valorem stamp duty ("AVD") refund mechanism for owners having acquired a new residential property before disposing of the original property, the exemption arrangement for

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acquisition of a residential unit together with a car parking space and the AVD adjustment mechanism. Mr James TO, Mr Abraham SHEK, Mr Tommy CHEUNG, and Mr Kenneth LEUNG had also indicated their intention to move CSAs to the Bill respectively. Members noted that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 9 July 2014.

(b) **Report of the Bills Committee on Shipping Legislation (Control of Smoke Emission) (Amendment) Bill 2014**  
*(LC Paper No. CB(4)833/13-14)*

23. Mr Steven HO, on behalf of Dr Kenneth CHAN, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Members noted that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 9 July 2014.

(c) **Report of the Bills Committee on Marriage (Amendment) Bill 2014**

24. Mr IP Kwok-him, Chairman of the Bills Committee, made a verbal report on the deliberations of the Bills Committee. Mr IP said that in the course of scrutiny, members had expressed particular concern about the proposal in the Bill that transsexual persons who had received full sex re-assignment surgery ("SRS") were eligible to marry in their re-assigned sex. Members of the Bills Committee had expressed diverse views on the proposal. Some members considered the full SRS requirement too high a threshold and lacked the flexibility to cater for transsexual persons in different situations. These members also queried whether the Bill might be in breach of the human rights of persons who had not received full SRS. Some other members, however, were of the view that the scope of the Court of Final Appeal ("CFA")'s Order made in *W v Registrar of Marriages* (FACV 4 of 2012) ("the W case") applied only to transsexual persons in the same situation as the Appellant who had gone through full SRS, and expressed objection to broadening the scope of the Bill to the effect that transsexual persons who had not received full or any SRS were qualified as persons in the re-assigned sex for the purpose of marriage. Furthermore, some members considered that given the controversial nature of the issues relating to gender recognition, the community must have a thorough discussion before deciding how to deal with those issues.

25. Mr IP Kwok-him informed the meeting that other issues discussed by the Bills Committee included the impact of a legally recognized gender change on an existing marriage, whether it would be considered as



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discriminatory under the Disability Discrimination Ordinance (Cap. 487) if religious organizations refused to celebrate marriages involving post-operative transsexuals due to religious beliefs, and urgency of the Bill. Mr IP further said that according to the Administration, the Order of CFA made in the W case would come into effect upon the expiry of the suspension period granted by CFA on 16 July 2014. Regardless of whether the Bill had been passed by LegCo then, W and other transsexuals in the same situation would be eligible to marry in their re-assigned sex. Nonetheless, the Administration had the obligation to align the statute law with CFA's judgment so as to afford the public a clear understanding of the right to marry enjoyed by transsexual persons who had completed full SRS. The Bills Committee noted that the Administration would introduce a CSA to specify 17 July 2014 as the commencement date of the Marriage (Amendment) Ordinance 2014.

26. Mr IP Kwok-him informed Members that Ms Cyd HO and Mr CHAN Chi-chuen had indicated their intention respectively to move CSAs in relation to the full SRS requirement. Mr Dennis KWOK had indicated his intention to move CSAs to, among others, introduce a sunset clause to the Bill. Mr Tommy CHEUNG had also indicated his intention to propose amendments to provide an exemption provision for religious bodies which refused to celebrate marriage for a post-operative transsexual on the ground of religious beliefs.

27. Mr IP Kwok-him added that the Bills Committee decided, after voting, to support the resumption of the Second Reading debate on the Bill at the Council meeting of 9 July 2014 proposed by the Administration. A written report would be submitted to HC.

28. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, proposed to be moved to the above three Bills was Saturday, 28 June 2014.

29. In response to Mr CHAN Chi-chuen's request to speak on the Marriage (Amendment) Bill 2014, the Chairman said that it was not necessary to initiate discussion under this agenda item the purpose of which was for the Chairman of the relevant Bills Committee to report to HC on the deliberations of the Bills Committee.

30. Mr Albert CHAN and Mr SIN Chung-kai said that according to past practice, members of a Bills Committee were allowed to briefly express their views after the Chairman of the Bills Committee had reported on the Committee's deliberations at a HC meeting. They expressed dissatisfaction that the Chairman had refused to allow Members to do so.

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**(d) Report of the Subcommittee to Study the Proposed Legislative Amendments Relating to the Establishment of a New Innovation and Technology Bureau**  
*(LC Paper No. CB(4)790/13-14)*

31. Ir Dr LO Wai-kwok, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Members noted that the Subcommittee raised no objection to the proposed resolution.

32. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above proposed resolution was Tuesday, 24 June 2014.

**VIII. Position on Bills Committees and subcommittees**  
*(LC Paper No. CB(2)1829/13-14)*

33. The Chairman said that as at 19 June 2014, there were 15 Bills Committees, six subcommittees under HC and nine subcommittees on policy issues under Panels in action. Three subcommittees on policy issues were on the waiting list.

34. The Chairman further said that he would swap the order of the next two agenda items. The meeting would first deal with Ms Cyd HO's proposal to invite CS and the Secretary for Justice ("SJ") to a HC meeting to discuss issues relating to the White Paper on "The Practice of the 'One Country, Two Systems' Policy in the Hong Kong Special Administrative Region" ("the White Paper"), which was originally scheduled to be considered under agenda item X. Members raised no objection.

**IX. Proposal of Hon Cyd HO to invite the Chief Secretary for Administration and the Secretary for Justice to attend a meeting of the House Committee to discuss issues relating to the White Paper on "The Practice of the 'One Country, Two Systems' Policy in the Hong Kong Special Administrative Region"**  
*(Letter dated 17 June 2014 from Hon Cyd HO (LC Paper No. CB(2)1872/13-14(01)))*

35. The Chairman suggested that he would, on behalf of HC, relay Ms Cyd HO's proposal to CS during his meeting with her next week and invite CS and SJ to a special HC meeting to discuss the White Paper.

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36. Ms Cyd HO said that while she did not object to the Chairman's suggestion, she considered it important that the Chairman should allow sufficient time for Members to express their views on her proposal.

37. Mr LEUNG Yiu-chung and Ms Claudia MO expressed dissatisfaction that the Chairman was only prepared to give one-minute speaking time for Members to express their views.

38. Mr Albert CHAN considered that a subcommittee might need to be formed to undertake preparatory work for the proposed HC meeting to discuss the White Paper. He also expressed strong dissatisfaction that the Chairman did not allow sufficient time for Members to express their views.

39. Mr SIN Chung-kai expressed support for the proposal to invite CS and SJ to a special HC meeting to discuss the White Paper. He hoped that CS and SJ would give an account on, among others, the role/involvement, if any, of the Government of the Hong Kong Special Administrative Region ("HKSAR") and any input it had given in the preparation of the White Paper.

40. Ms Claudia MO said that she had reservations about Ms Cyd HO's proposal, but did not oppose it. Ms MO explained that the White Paper, which was issued by the State Council of the People's Republic of China, had expressly stated that the Central Government exercised overall jurisdiction over HKSAR and that the Chief Executive of HKSAR should implement the directives issued by the Central Government in respect of relevant matters. She considered that it might be a waste of time for Members to discuss the White Paper with CS and SJ at a HC meeting, as they would probably repeat what they had said to the media since the publication of the White Paper.

41. Mr WONG Yuk-man said that while he did not expect that CS and SJ would be able to shed any light on issues relating to the White Paper, he did not object to the proposal to invite them to a HC meeting so that Members could put questions to them directly.

42. Members raised no objection to the Chairman's suggestion for him to relay Ms Cyd HO's proposal to CS during their next meeting and to invite CS and SJ to a special HC meeting on the White Paper.

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**X. Proposed duty visit to Israel by the Panel on Commerce and Industry  
(LC Paper No. CB(1)1638/13-14)**

43. The Chairman said that the proposal of the Panel on Commerce and Industry to conduct a duty visit to Israel would be dealt with at the next HC meeting. Members raised no objection.

**XI. Any other business**

44. There being no other business, the meeting ended at 3:00 pm.

Council Business Division 2  
Legislative Council Secretariat  
26 June 2014