

立法會
Legislative Council

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LC Paper No. CB(2)1178/13-14
(These minutes have been cleared
with the Chairman)

**Subcommittee on Toys and Children's Products Safety
(Additional Safety Standards or Requirements) Regulation,
Toys and Children's Products Safety Regulation (Repeal) Regulation and
Toys and Children's Products Safety (Amendment)
Ordinance 2013 (Commencement) Notice**

**Minutes of the first meeting
held on Friday, 28 February 2014, at 2:00 pm
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon Jeffrey LAM Kin-fung, GBS, JP (Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (2) 3

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 11

Ms Wendy LO
Council Secretary (2) 3

Mrs Fonny TSANG
Legislative Assistant (2) 3

Action

I. Election of Chairman

Mr Jeffrey LAM, the member with the highest precedence among those who were present at the meeting, presided over the election of the Chairman of the Subcommittee. He declared interests as the director and shareholder of toys manufacturing companies. He then invited nominations for the chairmanship of the Subcommittee.

2. Mr Jeffrey LAM was nominated by Mr WONG Ting-kwong and the nomination was seconded by Ir Dr LO Wai-kwok. Mr Jeffrey LAM accepted the nomination. Mr Abraham SHEK was nominated by Dr Fernando CHEUNG but Mr SHEK did not accept the nomination.

3. Dr Fernando CHEUNG said that as Mr Jeffrey LAM engaged in toys manufacturing business, there would be conflict of interests for Mr LAM to be the Chairman given that the subsidiary legislation to be scrutinized was related to the regulatory control of toys. Mr WONG Ting-kwong said that the subsidiary legislation sought to impose control on the concentration of phthalates in toys and children's products to ensure that their safety standards were on par with international requirements. He considered that Mr Jeffrey LAM's knowledge of the toys industry and relevant experience would contribute to the scrutiny work of the Subcommittee.

4. Dr Elizabeth QUAT said that there were precedents that a bills committee or subcommittee formed to scrutinize proposed legislation relating to a particular trade was chaired by a Member who worked/engaged in the relevant trade. She believed that all Members would be fair and impartial in chairing meetings and would duly make declarations in accordance with the existing interest declaration system.

5. Dr Fernando CHEUNG said that he did not question the impartiality of Mr Jeffrey LAM in chairing meetings, but considered that if Mr LAM was to be the Chairman of the Subcommittee, his involvement in toys business might constitute a direct pecuniary interest.

6. Mr Andrew LEUNG sought the advice of Assistant Legal Adviser ("ALA") and the Clerk regarding the concerns raised by Dr Fernando CHEUNG. On the issue of pecuniary interest, ALA said that the relevant rules were set out in Rules 83A and 84 of the Rules of Procedure ("RoP") and in paragraphs 5.17 and 5.18 of the Handbook for Chairman of Subcommittees on Subsidiary Legislation/Other Instruments ("the Handbook"). In relation to direct pecuniary interests, RoP 84(1) provided that "a Member shall not vote upon any question in which he has a direct pecuniary interest except where his interest is in common with the rest of the population of Hong Kong or a sector thereof or

his vote is given on a matter of Government policy". The same was repeated in paragraph 5.18 of the Handbook. ALA said that there was no mention that the Member concerned could not be the chairman of the relevant committee. ALA added that it was for individual Members to judge whether they had a direct pecuniary interest in the matter under consideration at the relevant meeting of the committee.

7. The Clerk said that RoP 77(6) provided that "a Member who is the chairman or deputy chairman of a Government advisory body in respect of matters which a Panel considers to be directly related to the terms of reference of the Panel shall not be the chairman or deputy chairman of the Panel". RoP 77(7) provided that "a Member shall not be chairman or deputy chairman of more than one Panel at the same time". As for the chairmanship of subcommittees or bills committees, there were no provisions in RoP imposing restrictions in this regard.

8. Ir Dr LO Wai-kwok and Mr WONG Ting-kwong agreed with Dr Elizabeth QUAT that it would suffice for Mr Jeffrey Lam to declare interests in accordance with the interest declaration system. Ir Dr LO considered that there was no pecuniary interest involved for Mr Jeffrey LAM to be the Chairman of the Subcommittee. He added that Mr LAM, in fact, had served as the Chairman of the former Bills Committee which scrutinized the amendment bill amending the principal ordinance to provide for safety standards for certain toys and children's products.

9. Mr Abraham SHEK said that the current legislative proposals were drawn up by the Administration, not by Mr Jeffrey LAM, and he did not see there were problems for Mr LAM to be the Chairman of the Subcommittee. He considered that every member could express any views and comments on the subsidiary legislation scrutinized by the Subcommittee, and it would not be possible for the Chairman to stop members from making any comments. Furthermore, in the end whether or not the subsidiary legislation had the support of the Legislative Council would be determined by the voting results of Members. He added that the performance of the Chairman would be subject to public monitoring.

10. Members noted that there was no more nomination. Mr Jeffrey LAM was elected as the Chairman of the Subcommittee.

11. Dr Fernando CHEUNG requested to put on record his objection to electing Mr Jeffrey LAM as the Chairman of the Subcommittee. He said that based on international practices, it seemed to be rare for a committee which was to scrutinize legislation on control of toys to be chaired by a Member who engaged in toys manufacturing. The Chairman expressed disagreement and

said that he had seen many such examples based on his experience of participating in overseas toys committees. Nevertheless, to address Dr Fernando CHEUNG's concerns, the Chairman said that he would declare interests at every meeting of the Subcommittee.

12. Members agreed that there was no need to elect a deputy Chairman for the Subcommittee.

II. Schedule of meetings

Clerk 13. The Chairman noted members' comments on various proposed timeslots and would further decide on the date of the next meeting. Meanwhile, he requested the Clerk to explore any better timeslot for members' consideration.

(Post-meeting note: With the concurrence of the Chairman, the next meeting was scheduled for Friday, 14 March 2014, from 9:30 am to 11:30 am.)

14. Members agreed to extend the scrutiny period of the relevant subsidiary legislation to 9 April 2014 to allow sufficient time for scrutiny.

Clerk 15. Members agreed that the Subcommittee would invite the public and relevant organizations to give views on the subsidiary legislation. A general notice to invite views from the public would be posted on the Legislative Council's website.

(Post-meeting note: With the concurrence of the Chairman, the meeting to receive views from deputations was scheduled for Friday, 21 March 2014, at 4:30 pm.)

III. Any other business

16. There being no other business, the meeting ended at 2:29 pm.

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Subcommittee on Toys and Children's Products Safety
(Additional Safety Standards or Requirements) Regulation,
Toys and Children's Products Safety Regulation (Repeal) Regulation and
Toys and Children's Products Safety (Amendment)
Ordinance 2013 (Commencement) Notice
on Friday, 28 February 2014, at 2:00 pm
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Time Marker	Speaker(s)	Subject(s)	Action required
000117 - 002141	Mr Jeffrey LAM Mr WONG Ting-kwong Ir Dr LO Wai-kwok Dr Fernando CHEUNG Mr Abraham SHEK Dr Elizabeth QUAT Mr SIN Chung-kai Mr Andrew LEUNG Assistant Legal Adviser Clerk	Mr Jeffrey LAM's declaration of interest as the director and shareholder of toys manufacturing companies. Election of Chairman	
002142 - 002910	Chairman Dr Fernando CHEUNG Dr Elizabeth QUAT Mr SIN Chung-kai Mr Abraham SHEK Dr Helena WONG Ms Cyd HO	Date of next meeting Extension of the scrutiny period of the subsidiary legislation Arrangements for receiving public views	The Clerk to follow up (paragraphs 13 and 15 of the minutes)