

立法會
Legislative Council

LC Paper No. CB(2) 975/09-10

Ref : CB2/H/5/09

House Committee of the Legislative Council

**Minutes of the 14th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 5 February 2010**

Members present :

Hon Miriam LAU Kin-yee, 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
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 Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
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
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP

Members absent :

Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Starry LEE Wai-king
Dr Hon LEUNG Ka-lau
Hon WONG Sing-chi

Clerk in attendance :

Mrs Vivian KAM
Clerk to the House Committee and
Acting Secretary General

Staff in attendance :

Mr Jimmy MA, JP	Legal Adviser
Mrs Constance LI	Assistant Secretary General 1
Mrs Justina LAM	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General (Special Duty)
Mr Stephen LAM	Acting Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Timothy TSO	Assistant Legal Adviser 2
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Winnie LO	Assistant Legal Adviser 7

Mr YICK Wing-kin	Assistant Legal Adviser 8
Ms Amy YU	Senior Council Secretary (2)3
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

Action

I. Confirmation of the minutes of the 13th meeting held on 29 January 2010
(LC Paper No. CB(2) 876/09-10)

The minutes were confirmed.

II. Matters arising

Report by the Chairman on her meeting with the Chief Secretary for Administration

2. The Chairman said that there was nothing special to report.

III. Business arising from previous Council meetings

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

(a) Companies (Amendment) Bill 2010

(Letter dated 29 January 2010 from the Secretary for Financial Services and the Treasury (LC Paper No. CB(2) 882/09-10(01))
(LC Paper No. LS 41/09-10)

3. The Chairman said that the Bill sought to amend the Companies Ordinance to, among others, streamline the company formation procedures; extend the powers of the Registrar of Companies (the Registrar) to direct a change of company name; enlarge the class of persons who might bring or intervene in statutory derivative actions; provide for electronic communications with the Registrar; and remove obstacles to the introduction of paperless holding and transfer of shares and debentures.

4. The Chairman further said that the Panel on Financial Affairs had been briefed on the legislative proposals at its meeting on 11 June 2009, and members had expressed various concerns. The Panel had also been briefed on the development of a scripless securities market on 1 February 2010.

5. Mr CHAN Kam-lam considered it necessary to form a Bills Committee to study the Bill.

Action

6. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr Albert HO, Dr Margaret NG, Mr CHAN Kam-lam, Dr Philip WONG, Ms Miriam LAU, Ms Audrey EU and Mr CHIM Pui-chung.

(b) Business Registration (Amendment) Bill 2010

*(Letter dated 29 January 2010 from the Secretary for Financial Services and the Treasury (LC Paper No. CB(2) 882/09-10(01))
(LC Paper No. LS 40/09-10)*

7. The Chairman said that the Bill sought to amend the Business Registration Ordinance to provide for simultaneous business registration applications on incorporation or application for non-Hong Kong company registration under the Companies Ordinance. The Panel on Financial Affairs had been briefed on the legislative proposals at its meeting on 11 June 2009, and members did not raise any queries.

8. The Chairman further said that the Secretary for Financial Services and the Treasury had written to propose that the Companies (Amendment) Bill 2010 and this Bill be considered together by one single Bills Committee. She invited Members' views on whether the Bills Committee formed to study the Companies (Amendment) Bill 2010 should also study this Bill.

9. Dr Margaret NG considered that both Bills should be studied in detail. She agreed to the Administration's proposal for the two Bills to be considered jointly by one Bills Committee.

10. Mr Paul CHAN also expressed support for the Administration's proposal. He indicated interest in joining the Bills Committee.

11. Members agreed that the two Bills be considered jointly by one Bills Committee.

12. The Chairman said that the Secretariat would issue a circular to invite Members to join the Bills Committee.

13. The Chairman further said that as there were vacant slots, the Bills Committee could commence work immediately.

(c) Buildings (Amendment) Bill 2010

(LC Paper No. LS 42/09-10)

14. The Chairman said that the Bill sought to amend the Buildings Ordinance to implement a mandatory building inspection scheme and a mandatory window inspection scheme. The Administration had discussed the legislative proposals with the Panel on Development (Panel on Dev) at a number of meetings since May 2007. While members generally supported the proposals, they expressed various concerns.

Action

15. Mr CHAN Kam-lam considered it necessary to form a Bills Committee to study the Bill.

16. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Dr Margaret NG, Mr James TO, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Ms Miriam LAU Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr KAM Nai-wai, Ms Cyd HO and Mr IP Kwok-him.

17. The Chairman said that as there were vacant slots, the Bills Committee could commence work immediately.

IV. Business for the Council meeting on 24 February 2010

(a) Questions

18. The Chairman informed Members that only written questions would be scheduled for the Council meeting, as the Financial Secretary would deliver his Budget speech. She reminded Members that the cut-off date for registration of questions to be raised at the Council meeting was 12:00 midnight on the day of the House Committee meeting.

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

The Administration has advised the Clerk to the Legislative Council that the Financial Secretary intends to present to the Council at the meeting:

- (i) the Appropriation Bill 2010; and**
- (ii) the Estimates of Expenditure for the year ending 31 March 2011**

19. The Chairman said that the Financial Secretary would deliver his Budget speech.

Subsidiary legislation the period for amendment of which would expire on 24 February 2010

20. The Chairman said that a list of subsidiary legislation the period for amendment of which would expire on 24 February 2010 had been tabled at the meeting. The deadline for Members to give notification to the Clerk of their intention to speak on the subsidiary legislation was 12:00 midnight on Friday, 12 February 2010.

V. Report of Bills Committees and subcommittees

Report of the Bills Committee on Genetically Modified Organisms (Control of Release) Bill

(LC Paper No. CB(1) 1060/09-10)

21. Ms Audrey EU, Chairman of the Bills Committee, reported on the deliberations of the Bills Committee as detailed in its report.

22. Ms EU elaborated that the Bill sought to give effect to the Cartagena Protocol on Biosafety to control the release of genetically modified organisms (GMOs) into the environment and the import and export of GMOs. The Bills Committee generally supported the Bill to enable Hong Kong to comply with its international obligations. However, members had expressed concern about the excessive enforcement powers and the heavy penalties for contravention under the Bill. The enforcement powers included the power to stop and search any persons, transport means or premises without warrant. Members were also concerned that empowering the Director of Agriculture, Fisheries and Conservation to sell or dispose of the things seized might run contrary to the object of the Bill to control release of GMOs into the environment. Members considered that the seized thing should be returned to the owner if its release would not affect the environment, and empowering the Director to sell the seized thing was not fair to the owner. Members also considered it necessary to provide compensation to owners of the seized things to make up for their losses.

23. Ms EU further reported that in the course of its deliberations, the Bills Committee had also examined issues relating to reference to international conventions in long titles of bills; prevalence of GMOs in Hong Kong; adventitious presence of GMOs; restrictions on release of GMOs into the environment; approval of GMOs; and entry of information and decisions on GMO approval applications and variation requests in the relevant register. The Administration had taken on board many views raised by members, and would move relevant Committee Stage amendments (CSAs). The Secretary for the Environment would make clarifications and undertakings in respect of various issues at the resumption of the Second Reading debate on the Bill. Ms EU added that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting on 10 March 2010.

24. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 1 March 2010.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 877/09-10)

25. The Chairman said that there were six Bills Committees, five subcommittees under the House Committee (i.e. two subcommittees on subsidiary legislation and three subcommittees on policy issues) and seven subcommittees under Panels in action.

VII. Proposal for activation of the Subcommittee on Residential and Community Care Services for Persons with Disabilities and the Elderly under the Panel on Welfare Services

(LC Paper No. CB(2) 836/09-10)

26. As Mr WONG Sing-chi, Chairman of the Panel on Welfare Services (WS Panel), was not able to attend the meeting, Mr CHEUNG Kwok-che, its Deputy Chairman, briefed Members on the Panel's proposal for activation of the Subcommittee on Residential and Community Care Services for Persons with Disabilities and the Elderly (the Subcommittee)

27. Mr CHEUNG elaborated that the WS Panel decided at its meeting on 11 January 2010 to appoint the Subcommittee to enable more focused discussion on the Government's effort in increasing the provision of subsidised residential places and enhancing care and support for the elderly and persons with disabilities in the community. He referred Members to the Panel's paper for the terms of reference, work plan and time frame of the Subcommittee.

28. Mr CHEUNG further said that the WS Panel noted that 10 subcommittees on policy issues were currently in operation, and the Subcommittee had been automatically put on the waiting list. As the existing provision of subsidised residential places was far from adequate in meeting the increasing demand, members of the WS Panel generally considered that the Subcommittee should commence work as early as possible. As there were vacant Bills Committee slots, the WS Panel agreed to seek the approval of the House Committee for the commencement of work of the Subcommittee.

29. The Chairman drew to Members' attention the provisions in the House Rules (HR) relevant to activation and operation of subcommittees on policy issues. She said that according to HR 26(a), the maximum number of subcommittees on policy issues appointed by the House Committee and Panels that might be in operation at any one time was eight. As there were already 10 such subcommittees in action, the Subcommittee could commence work if three existing subcommittees finished their work, or if the House Committee gave its approval. Under HR 26(b), where the number of Bills Committees in operation was less than 16, the House Committee might activate subcommittees on the waiting list after having considered the following -

- (i) the number of vacant slots for Bills Committees;
- (ii) the number of bills likely to be introduced to the Council in the next three months;
- (iii) the number of subcommittees on subsidiary legislation already or likely to be appointed by the House Committee; and
- (iv) the availability of resources in the Secretariat.

Action

30. The Chairman further said that the Secretariat had indicated upon her enquiry that while its manpower resources had been stretched tightly, it would make its best effort to absorb the servicing of the Subcommittee.

31. The Chairman invited Members' views on the proposed activation of the Subcommittee.

32. Mr IP Kwok-him said that the Secretariat should assess its capacity to cope with the servicing of the number of additional subcommittees. He was given to understand that the Panel on Dev would soon consider a proposal for the appointment of a subcommittee to study issues arising from the recent collapse of an old building in To Kwa Wan. He was concerned whether the Secretariat would be able to cope with the servicing of such a subcommittee if the Subcommittee in question was activated.

33. At the invitation of the Chairman, Acting Secretary General (Acting SG) briefed Members on the existing and anticipated workload of the Secretariat. She highlighted that having taken into consideration the number of Bills Committees and subcommittees on subsidiary legislation likely to be appointed, it was anticipated that a total of 52 committees would be in operation at the same time in the coming three months. Notwithstanding the fact that the current staffing complement of the Secretariat was only to cater for the servicing of 48 committees, the Secretariat would try to absorb the servicing of 53 committees including the Subcommittee seeking approval to commence work. Should a further request be made to the House Committee for the activation of another subcommittee in future, the Secretariat would then assess whether its manpower resources could cope with the work.

34. The Chairman said that if the Subcommittee was activated, the Secretariat might not be able to cope with the servicing of another additional subcommittee.

35. Dr Margaret NG sought clarification on whether the proposed subcommittee to study issues relating to old buildings would be formed under the Panel on Dev or the House Committee. She was concerned that should the former be the case, only members of the Panel on Dev could join the subcommittee. In her view, as the issues relating to old buildings straddled various policy areas, the subcommittee, if formed, should be under the House Committee so that all Members would have the opportunity to join it.

36. The Chairman said that a proposal had yet to be made on the appointment of such a subcommittee. The Panel on Dev should take note of Dr Margaret NG's view and discuss with the relevant Panels in considering the appointment of such a subcommittee.

Action

37. Dr Margaret NG pointed out that whether such a subcommittee would be formed would have a bearing on the activation of the Subcommittee in question. As Members had to take into account the manpower resources of the Secretariat, the possibility of the appointment of such a subcommittee was relevant in considering the proposed activation of the Subcommittee.

38. Mr IP Kwok-him said that Prof Patrick LAU had indicated that he would make a proposal to the Panel on Dev for the appointment of a subcommittee to study building safety issues. The matter had also been mentioned at the meeting of the Panel on Home Affairs held in the morning of the day of the House Committee meeting. Members should consider the number of additional subcommittees the Secretariat could cope with.

39. Mr WONG Kwok-hing shared the view that the Secretariat should take into account the anticipated appointment of another subcommittee in assessing its capacity. He noted Prof Patrick LAU's proposal for the appointment of a subcommittee to study building safety issues which would straddle the policy areas of the Panel on Dev, Panel on Housing and Panel on Home Affairs. Mr WONG said that if the Secretariat considered that it was able to absorb the servicing of the Subcommittee, it should be prepared to cope also with the servicing of the other subcommittee mentioned.

40. The Chairman invited Acting SG's view on whether the Secretariat could cope with the servicing of both the Subcommittee and the other subcommittee likely to be appointed.

41. Acting SG said that four Bills Committees and two subcommittees on subsidiary legislation were currently in operation. It was expected that another eight Bills Committees and six subcommittees would likely be appointed in the coming three months. Taking into account the existing and anticipated workload, the Secretariat would make its best endeavour to absorb the servicing of both subcommittees.

42. Members agreed to the proposal to activate the Subcommittee.

VIII. Filling of vacancies in the membership of committees of the Legislative Council and the Council of The Chinese University of Hong Kong arising from the resignation of Members

(LC Paper No. CB(3) 431/09-10)

43. The Chairman said that arising from the resignation of five Legislative Council Members with effect from 29 January 2010, the paper sought Members' view on the election of Members to fill the vacancies in the membership of the Public Accounts Committee, the Committee on Members' Interests, the Committee on Rules of Procedure and the Council of The Chinese University of Hong Kong at the House Committee meeting on 26 February 2010.

Action

44. Dr Philip WONG, Chairman of the Public Accounts Committee, enquired whether the election to fill the two vacancies in the membership of the Public Accounts Committee could be held immediately at the meeting so that the newly elected members could attend the hearing on 8 February 2010.

45. While noting Dr WONG's view, Members agreed that the proposed election should be held at the House Committee meeting on 26 February 2010.

46. The Chairman further said that there was also a vacancy in the membership of the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man. As the composition of the Select Committee was recommended by the House Committee and the Rules of Procedure did not provide for the size of membership of a select committee, the House Committee might consider whether the vacancy of membership of the Select Committee should be filled. To assist Members in its deliberations, the Select Committee would be invited to give views on the matter at its next meeting on 9 February 2010 and its views would be submitted to the House Committee for consideration.

47. Members agreed to take into account the views of the Select Committee before deciding whether the vacancy in the membership of the Select Committee should be filled. Members also agreed that if it was considered necessary to fill the vacancy, the relevant election would be held at the House Committee meeting on 26 February 2010.

IX. Any other business

48. There being no other business, the meeting ended at 2:49 pm.