

LEGISLATIVE COUNCIL

MINUTES

No. 24

**Minutes of the meeting held on Wednesday 18 April 2012 at 11:00 am
and Thursday 19 April 2012 at 9:00 am**

Members present:

President

The Hon Jasper TSANG Yok-sing, GBS, JP

The Hon Albert HO Chun-yan

Ir Dr the Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP

The Hon LEE Cheuk-yan

The Hon Fred LI Wah-ming, SBS, JP

Dr the Hon Margaret NG

The Hon James TO Kun-sun

The Hon CHEUNG Man-kwong

The Hon CHAN Kam-lam, SBS, JP

The Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP

The Hon LEUNG Yiu-chung

Dr the Hon Philip WONG Yu-hong, GBS

The Hon WONG Yung-kan, SBS, JP

The Hon LAU Kong-wah, JP

The Hon LAU Wong-fat, GBM, GBS, JP

The Hon Miriam LAU Kin-yee, GBS, JP

The Hon Emily LAU Wai-hing, JP

The Hon Andrew CHENG Kar-foo

The Hon Timothy FOK Tsun-ting, GBS, JP

The Hon TAM Yiu-chung, GBS, JP

The Hon Abraham SHEK Lai-him, SBS, JP

The Hon LI Fung-ying, SBS, JP

The Hon Tommy CHEUNG Yu-yan, SBS, JP

The Hon Frederick FUNG Kin-kee, SBS, JP

The Hon Audrey EU Yuet-mee, SC, JP

The Hon Vincent FANG Kang, SBS, JP

The Hon WONG Kwok-hing, MH

The Hon LEE Wing-tat

Dr the Hon Joseph LEE Kok-long, SBS, JP

The Hon Jeffrey LAM Kin-fung, GBS, JP

The Hon Andrew LEUNG Kwan-yuen, GBS, JP

The Hon CHEUNG Hok-ming, GBS, JP

The Hon WONG Ting-kwong, BBS, JP

The Hon Ronny TONG Ka-wah, SC

The Hon CHIM Pui-chung

Prof the Hon Patrick LAU Sau-shing, SBS, JP

The Hon KAM Nai-wai, MH

The Hon Cyd HO Sau-lan

The Hon Starry LEE Wai-king, JP

Dr the Hon LAM Tai-fai, BBS, JP

The Hon CHAN Hak-kan

The Hon Paul CHAN Mo-po, MH, JP

The Hon CHAN Kin-por, JP

Dr the Hon Priscilla LEUNG Mei-fun, JP

Dr the Hon LEUNG Ka-lau

The Hon CHEUNG Kwok-che

The Hon WONG Sing-chi

The Hon WONG Kwok-kin, BBS

The Hon IP Wai-ming, MH

The Hon IP Kwok-him, GBS, JP

Dr the Hon PAN Pey-chyou

The Hon Paul TSE Wai-chun, JP

Dr the Hon Samson TAM Wai-ho, JP

The Hon Alan LEONG Kah-kit, SC

The Hon LEUNG Kwok-hung

The Hon Tanya CHAN

The Hon Albert CHAN Wai-yip

The Hon WONG Yuk-man

Members absent:

Dr the Hon David LI Kwok-po, GBM, GBS, JP

The Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Public officers attending:

On 18.4.2012

The Hon Edward YAU Tang-wah, GBS, JP
Secretary for the Environment

On 18.4.2012 and 19.4.2012

The Hon Ambrose LEE Siu-kwong, GBS, IDSM, JP
Secretary for Security

The Hon Matthew CHEUNG Kin-chung, GBS, JP
Secretary for Labour and Welfare

Ms Julia LEUNG Fung-ye, JP
Secretary for Financial Services and the Treasury

The Hon Mrs Carrie LAM CHENG Yuet-ngor, GBS, JP
Secretary for Development

The Hon Eva CHENG, GBS, JP
Secretary for Transport and Housing

The Hon Raymond TAM Chi-yuen, JP
Secretary for Constitutional and Mainland Affairs

On 19.4.2012

The Hon Stephen LAM Sui-lung, GBS, JP
The Chief Secretary for Administration

The Hon WONG Yan-lung, SC, JP
The Secretary for Justice

Dr the Hon York CHOW Yat-ngok, GBS, JP
Secretary for Food and Health

The Hon TSANG Tak-sing, GBS, JP
Secretary for Home Affairs

The Hon Gregory SO Kam-leung, JP
Secretary for Commerce and Economic Development

Dr Kitty POON Kit, JP
Under Secretary for the Environment

Mr YAU Shing-mu, JP
Under Secretary for Transport and Housing

Clerks in attendance:

On 18.4.2012

Ms Pauline NG Man-wah, Secretary General

On 18.4.2012 and 19.4.2012

Mrs Constance LI TSOI Yeuk-lin, Assistant Secretary General (1)

Mrs Justina LAM CHENG Bo-ling, Assistant Secretary General (3)

Mrs Percy MA, Assistant Secretary General (4)

On 19.4.2012

Miss Odelia LEUNG Hing-ye, Assistant Secretary General (2)

Noting the absence of a quorum, the President directed the Clerk to summon Members to the meeting. A quorum was then present.

Tabling of Papers

The following papers were laid on the table under Rule 21(2) of the Rules of Procedure:

| <u>Subsidiary Legislation / Instruments</u> | <u>L.N. No.</u> |
|--|-----------------|
| 1. Employees Retraining Ordinance (Amendment of Schedule 2) Notice 2012 (gazetted on 30.3.2012) | 49/2012 |
| 2. Enduring Powers of Attorney (Amendment) Ordinance 2011 (Commencement) Notice (gazetted on 30.3.2012) | 50/2012 |
| 3. International Organizations (Privileges and Immunities) (Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction) Order (gazetted on 13.4.2012) | 52/2012 |
| 4. Statutes of The Chinese University of Hong Kong (Amendment) Statutes 2012 (gazetted on 13.4.2012) | 53/2012 |

Other Papers

- No. 85 - Education Scholarships Fund
Trustee's Report on the Administration of the Fund and Financial statements together with the Report of the Director of Audit for the year ended 31 August 2011
(published on 3.4.2012)
- No. 86 - Research Endowment Fund
Financial statements together with the Report of the Director of Audit for the year ended 31 August 2011
(published on 12.4.2012)

No. 87 - Employees Retraining Board Annual Report 2010-11 (published on 13.4.2012)

No. 88 - Report No. 58 of the Director of Audit on the results of value for money audits - March 2012
(published on 18.4.2012)

Report No. 16/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments
(published on 11.4.2012)

Report of the Bills Committee on Protection of Wages on Insolvency (Amendment) Bill 2011
(published on 12.4.2012)

Report of the Bills Committee on Lifts and Escalators Bill
(published on 13.4.2012)

Questions

1. Hon WONG Kwok-kin asked Question 1.

The Secretary for Transport and Housing replied.

Six Members asked supplementary questions and the Secretary for Transport and Housing replied.

2. Hon Audrey EU asked Question 2.

The Secretary for Constitutional and Mainland Affairs replied.

Five Members asked supplementary questions and the Secretary for Constitutional and Mainland Affairs replied.

3. Hon LAU Kong-wah asked Question 3.

The Secretary for Transport and Housing replied.

Three Members asked supplementary questions and the Secretary for Transport and Housing replied.

4. Dr Hon Priscilla LEUNG asked Question 4.

The Secretary for the Environment replied.

A Member asked a supplementary question and the Secretary for the Environment replied.

5. Hon Tommy CHEUNG asked Question 5.

The Secretary for Financial Services and the Treasury replied.

Three Members asked supplementary questions and the Secretary for Financial Services and the Treasury replied.

6. Hon WONG Yung-kan asked Question 6.

The Secretary for the Environment replied.

Two Members asked supplementary questions and the Secretary for the Environment replied.

Written replies to Questions 7 to 20 were tabled for Members' information.

Bills

Protection of Wages on Insolvency (Amendment) Bill 2011

Resumption of Second Reading debate

The debate on the Second Reading which was moved on 13 July 2011 resumed.

Hon WONG Ting-kwong, Chairman of the Bills Committee on Protection of Wages on Insolvency (Amendment) Bill 2011, addressed the Council on the Committee's Report. After the address, he spoke on the Bill in his personal capacity as a Member.

While Hon WONG Ting-kwong was speaking, the President left the chair at 1:05 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Seven Members spoke on the Bill.

The Secretary for Labour and Welfare replied.

Question on the Second Reading put and agreed to.

Bill read the second time and committed to a committee of the whole Council.

Committee stage

The Council went into committee and considered the Protection of Wages on Insolvency (Amendment) Bill 2011.

Question that clauses 1 to 4 and 6 to 11 stand part of the Bill proposed, put and agreed to.

Question that clause 5 stand part of the Bill proposed.

The Secretary for Labour and Welfare moved amendments to clause 5 and spoke on the amendments.

Question on the amendments put and agreed to.

Question that clause 5 as amended stand part of the Bill proposed, put and agreed to.

The Council then resumed.

Third Reading

The Secretary for Labour and Welfare reported that

the Protection of Wages on Insolvency (Amendment) Bill 2011

had passed through the Committee stage with amendments. The Bill was ordered to be set down for Third Reading under Rule 59 of the Rules of Procedure.

The Secretary for Labour and Welfare moved that the Bill be read the third time and do pass.

Question on the Third Reading proposed, put and agreed to.

Bill read the third time and passed.

Lifts and Escalators Bill

Resumption of Second Reading debate

The debate on the Second Reading which was moved on 11 May 2011 resumed.

Ir Dr Hon Raymond HO, Chairman of the Bills Committee on Lifts and Escalators Bill, addressed the Council on the Committee's Report. After the address, he spoke on the Bill in his personal capacity as a Member.

At 2:38 pm, while Ir Dr Hon Raymond HO was speaking, the President resumed the chair.

Seven Members spoke on the Bill.

The Secretary for Development replied.

Question on the Second Reading put and agreed to.

Bill read the second time and committed to a committee of the whole Council.

Committee stage

The Council went into committee and considered the Lifts and Escalators Bill.

Question that clauses 1, 3 to 7, 12 to 15, 18 to 23, 29, 30, 33, 36, 37, 39, 40, 41, 44, 45, 46, 49 to 53, 59, 60, 63, 66, 67, 69 to 100, 102 to 112, 114, 116 to 122, 125 to 146, 148 to 153, 155, 156, 157 and 160 stand part of the Bill proposed, put and agreed to.

Question that clauses 2, 8 to 11, 16, 17, 24 to 28, 31, 32, 34, 35, 38, 42, 43, 47, 48, 54 to 58, 61, 62, 64, 65, 68, 101, 113, 115, 123, 124, 147, 154, 158 and 159 stand part of the Bill proposed.

The Secretary for Development moved amendments to the aforesaid clauses and spoke on the amendments.

Question on the amendments put and agreed to.

Question that clauses 2, 8 to 11, 16, 17, 24 to 28, 31, 32, 34, 35, 38, 42, 43, 47, 48, 54 to 58, 61, 62, 64, 65, 68, 101, 113, 115, 123, 124, 147, 154, 158 and 159 as amended stand part of the Bill proposed, put and agreed to.

Question that Schedules 2 to 6, 9 and 10 stand part of the Bill proposed, put and agreed to.

Question that Schedules 1, 7, 8 and 11 to 16 stand part of the Bill proposed.

The Secretary for Development moved amendments to Schedules 1, 7, 8 and 11 to 16 and spoke on the amendments.

Question on the amendments put and agreed to.

Question that Schedules 1, 7, 8 and 11 to 16 as amended stand part of the Bill proposed, put and agreed to.

The Council then resumed.

Third Reading

The Secretary for Development reported that

the Lifts and Escalators Bill

had passed through the Committee stage with amendments. The Bill was ordered to be set down for Third Reading under Rule 59 of the Rules of Procedure.

The Secretary for Development moved that the Bill be read the third time and do pass.

Question on the Third Reading proposed, put and agreed to.

Bill read the third time and passed.

Members' Motions

Proposed resolution under section 34(4) of the Interpretation and General Clauses Ordinance

Hon CHAN Kam-lam moved the following motion and spoke on the motion:

Resolved that in relation to the Prevention of Bribery Ordinance (Amendment of Schedules 1 and 2) Order 2012, published in the Gazette as Legal Notice No. 38 of 2012, and laid on the table of the Legislative Council on 21 March 2012, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 9 May 2012.

Question on the motion proposed, put and agreed to.

Motion under Rule 49B(1A) of the Rules of Procedure

The President stated that Hon Miriam LAU had moved a motion under Rule 49B(1A) of the Rules of Procedure to censure Hon KAM Nai-wai at the Council meeting of 9 December 2009. The debate on that motion was adjourned

and the matter stated in the motion was referred to an investigation committee in accordance with Rule 49B(2A) of the Rules of Procedure.

As the report of the investigation committee established in respect of the censure motion had been laid on the Table of the Council on 28 March 2012, the Council resumed the debate on the following motion in accordance with Rule 40(6A) of the Rules of Procedure:

That this Council, in accordance with Article 79(7) of the Basic Law, censures Hon KAM Nai-wai for misbehaviour (details as particularized in the Schedule to this motion).

Schedule

Details of misbehaviours of Hon KAM Nai-wai are set out below:

(a) Hon KAM Nai-wai made inconsistent remarks to the media and withheld key information, causing the public to have doubts about his integrity

There were media reports on 4 October 2009 that Hon KAM Nai-wai dismissed his female assistant because of his unsuccessful advances to her. The female assistant was employed with public funds to assist him in performing his duties as a Legislative Council Member. At his press conference held on the same day, Mr KAM:

- (i) denied that he had made advances to his female assistant and did not disclose that he had expressed affection towards her; and
- (ii) denied that he had dismissed his female assistant because of his unsuccessful advances, and pointed out that the employment contract with his female assistant was terminated by giving one-month payment in lieu of notice which was in accordance with the employment contract, but did not mention that he had expressed affection towards her.

However, after the media subsequently reported that he had actually made advances to his female assistant, Mr KAM admitted on 6 October 2009 on a radio programme that he had expressed affection towards his female assistant when he was alone with her on one occasion in mid-June 2009.

- (b) **Hon KAM Nai-wai was unfair in dismissing his female assistant, whose overall work performance was judged by him to be good, after his expression of affection was rejected by her**

In mid-June 2009, Hon KAM Nai-wai expressed affection towards his female assistant. Subsequently, he noticed some signs of his female assistant rejecting him. Between early September and mid-September 2009, Mr KAM invited his female assistant to dine out and was also refused by her. Subsequently on 24 September 2009, he terminated the employment contract with his female assistant with immediate effect without reason assigned, although her overall work performance was judged by him to be good.

Twelve Members spoke on the motion.

Question on the motion put.

Hon IP Kwok-him claimed a division. The President then ordered the Council to proceed to a division.

The President announced that there were 48 Members present, 27 were against the motion and 20 abstained (voting record in **Appendix I**). Since the question was not agreed by a two-thirds majority of the Members present, he declared that the motion was not endorsed by a two-thirds majority of the Members present.

Motion under Rule 49B(1) of the Rules of Procedure

Hon Paul TSE moved the following motion and spoke on the motion:

That whereas the Honourable LEUNG Kwok-hung was convicted on 19 March 2012 in the Kowloon City Magistrates' Courts in the Hong Kong Special Administrative Region of four criminal offences and was sentenced on 20 March 2012 by the Kowloon City Magistrates' Courts to imprisonment for one month or more (as particularized in the Schedule to this motion), this Council relieves the Honourable LEUNG Kwok-hung of his duties as a Member of the Legislative Council.

Schedule

| <u>Case No.</u> | <u>Count</u> | <u>Offence Convicted</u> | <u>Date of Conviction</u> | <u>Sentence</u> | <u>Date of Sentence</u> |
|--|---------------------------|--|-------------------------------|------------------------------|-----------------------------|
| Kowloon City Magistrates' Courts Criminal Case No. 3676 of 2011 | 1 st Charge | Criminal damage, contrary to section 60(1) of the Crimes Ordinance (Cap. 200) | 19 March 2012 | Imprisonment for 2 months | 20 March 2012 |
| | 2 nd Charge | Acting in a disorderly manner at a public gathering, contrary to section 17B(1) of the Public Order Ordinance (Cap. 245) | 19 March 2012 | Imprisonment for 5 weeks | 20 March 2012 |
| | 3 rd Charge | Behaving in a disorderly manner in a public place, contrary to section 17B(2) of the Public Order Ordinance (Cap. 245) | 19 March 2012 | Imprisonment for 5 weeks | 20 March 2012 |

| <u>Case No.</u> | <u>Count</u> | <u>Offence Convicted</u> | <u>Date of Conviction</u> | <u>Sentence</u> | <u>Date of Sentence</u> |
|-----------------|---------------------------|--|-------------------------------|---|-----------------------------|
| | 4 th Charge | Criminal damage, contrary to section 60(1) of the Crimes Ordinance (Cap. 200) | 19 March 2012 | Imprisonment for 2 months | 20 March 2012 |
| | | | | (1 st to 4 th Charges to run concurrently) | |

Question on the motion proposed.

A Member and Hon WONG Yuk-man spoke on the motion.

While Hon WONG Yuk-man was speaking, the President left the chair at 7:25 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Another Member and Hon Albert CHAN spoke on the motion.

At 7:55 pm, while Hon Albert CHAN was speaking, the President resumed the chair.

Two Members spoke on the motion.

Hon LEUNG Kwok-hung declared that he did not think that any direct pecuniary interests were involved, and the motion was only about whether he should be relieved of his duties, but according to the requirement of the Legislative Council, he had to state clearly whether he had any pecuniary interests in the matter, and so he had to make a declaration. He then spoke on the motion.

Two Members spoke on the motion.

With the President's permission, Hon LEUNG Kwok-hung elucidated a point he had made earlier which he considered to be misunderstood by Hon LAU Kong-wah.

A Member and Hon CHIM Pui-chung spoke on the motion.

While Hon CHIM Pui-chung was speaking, Hon LEE Cheuk-yan raised a point of order on whether Hon CHIM Pui-chung had used offensive language about other Members. The President ruled that Hon CHIM Pui-chung's speech was not offensive to any Member.

Hon CHIM Pui-chung continued to speak.

Two more Members spoke on the motion.

The President suspended the meeting at 10:01 pm.

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The Council resumed at 9:00 am on 19 April 2012.

Ten Members spoke on the motion.

The President stated that Hon LEUNG Kwok-hung had sought his permission to speak again. Under Rule 38(1)(g) of the Rules of Procedure, a Member might not speak more than once on a question, except with the leave of the President. The President elucidated that in exercising his discretion, he had made reference to the relevant discussion and decision of the Committee on Rules of Procedure. The President cited the relevant paragraphs in the paper of the Committee on Rules of Procedure on "Procedural Arrangements for implementing Article 79(6) of the Basic Law" (issued on 13 August 1998), its "Report on the Procedural Arrangements for implementing Article 79(6) of the Basic Law" (issued in September 1998) and its "Progress Report for the period July 1998 to April 1999" for Members' information. The decision of the Committee on Rules of Procedure was that at the resumed debate on a motion moved under Article 79(6) of the Basic Law, the President might, if at the request of the Member who was proposed to be relieved of his duties under a relevant motion, allow the Member to speak for a second time after all other Members had spoken but before the reply by the mover of the motion.

In the light of the decision of the Committee on Rules of Procedure, the President stated that he would, in accordance with Rule 38(1)(g), accede to Hon LEUNG Kwok-hung's request and allow him to speak once again after all other Members had spoken but before the reply by Hon Paul TSE.

Hon CHIM Pui-chung requested to speak again. The President did not accede to Hon CHIM Pui-chung's request and stated that although a number of Members had mentioned Mr CHIM's case in their speeches, the discretion to allow a Member to speak again in this debate only applied to the Member who was proposed to be relieved of his duties as a Member of the Legislative Council.

Hon LEUNG Kwok-hung spoke again.

While Hon LEUNG Kwok-hung was speaking, Hon IP Kwok-him stood up and sought the President's permission for him to respond to the questions put to him in Hon LEUNG Kwok-hung's speech. The President stated that Hon IP Kwok-him had already spoken once and asked him to sit down.

Hon Paul TSE declared that the second defendant in the case, Mr WONG Yeung-tat, also known as "Emperor", was represented by his law firm. His law firm represented Mr WONG on a pro bono basis, but he had never discussed this case with the lawyers concerned. He then gave his reply.

Before putting the question on the motion, the President reminded Members that in accordance with Rule 49B(3) of the Rules of Procedure, the passage of this motion to relieve a Member of his duties should require a two-thirds majority vote of the Members present.

The President stated that Hon LEUNG Kwok-hung had indicated in his speech yesterday that he had a pecuniary interest. According to Rule 84(1A) of the Rules of Procedure, a Member should withdraw when a vote was taken on a question in which he had a direct pecuniary interest.

Hon LEUNG Kwok-hung declared that there was only an indirect pecuniary interest, which was the remuneration received from his public office, involved in the question, but no direct interest was involved.

The President further stated that he would not give any ruling on whether a Member had any direct or indirect pecuniary interest in a question in which a vote was to be taken. According to the Rules of Procedure, if the Member concerned had stayed to vote and any other Member considered that the Member concerned must withdraw owing to his direct pecuniary interest in the question put up for vote, the other Member might move a motion for the withdrawal of the Member concerned. Should such a motion be moved, the decision should rest with the Council.

Question on the motion put.

Hon Paul TSE claimed a division. The President then ordered the Council to proceed to a division.

The President announced that there were 46 Members present, 19 were in favour of the motion, 25 against it and one abstained (voting record in **Appendix II**). Since the question was not agreed by a two-thirds majority of the Members present, he declared that the motion was not endorsed by a two-thirds majority of the Members present.

Proposed resolution under the Legislative Council (Powers and Privileges) Ordinance

Hon LEE Cheuk-yan moved the following motion and spoke on the motion:

That this Council appoints a select committee to inquire into whether any Member of the Executive Council or public officer had, in the course of approving the renewal of the sound broadcasting licence of Hong Kong Commercial Broadcasting Company Limited in 2003, proposed the shortening of the licence renewal term or any other administrative means in an attempt to suppress freedom of the press and freedom of expression, as well as related issues; and to inquire into whether any Member of the Executive Council or public officer had, in the course of deciding whether to resume the Second Reading debate on the National Security (Legislative Provisions) Bill in 2003, mentioned the use of anti-riot squad and tear gas against protesters, as well as related issues; and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance.

Question on the motion proposed.

The Secretary for Commerce and Economic Development spoke on the motion.

The Secretary for Security spoke on the motion.

A Member and Hon Alan LEONG spoke on the motion.

While Hon Alan LEONG was speaking, the President left the chair at 12:15 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Five other Members and Hon CHAN Hak-kan spoke on the motion.

At 1:22 pm, while Hon CHAN Hak-kan was speaking, the President resumed the chair.

Two more Members spoke on the motion.

The Secretary for Commerce and Economic Development spoke again.

After the Secretary for Commerce and Economic Development had spoken, some noise was heard in the Chamber. The President asked the Secretariat staff to identify the source of the noise and suspended the meeting at 2:06 pm.

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The Council resumed at 2:13 pm.

The Secretary for Security spoke again.

Hon LEE Cheuk-yan replied.

Question on the motion put.

Hon LEE Cheuk-yan claimed a division. The President then ordered the Council to proceed to a division.

While the division bell was ringing, Hon Paul CHAN declared that he was the nominator of Mr LEUNG Chun-ying in the Chief Executive Election, and he would stay in the Chamber later but would not cast any vote, as in the case of the voting on the motion on invoking the Legislative Council (Powers and Privileges) Ordinance to investigate the West Kowloon Development incident.

The President announced that among the Members returned by functional constituencies, 26 were present, four were in favour of the motion and 21 against it; while among the Members returned by geographical constituencies through direct elections, 23 were present, 14 were in favour of the motion and eight against it (voting record in **Appendix III**). Since the question was not agreed by a majority of each of the two groups of Members present, he declared that the motion was negatived.

Perfecting Hong Kong's housing policy

Hon WONG Kwok-kin moved the following motion and spoke on the motion:

That, although the Government already resumed the construction of Home Ownership Scheme ('HOS') flats and increased land supply last year in response to strong public demand, the supply and prices of residential units in Hong Kong still continue to fluctuate, with the housing issue remaining people's greatest concern and grass-root people continuing to face various housing difficulties; in this connection, this Council urges the Government to ensure the healthy and stable development of the property market and formulate a long-term housing policy, so as to respond to the housing demand of various strata and perfect the housing ladder and mobility in Hong Kong; the relevant measures should include:

- (a) to increase the existing annual public rental housing ('PRH') production to 30 000 units or more for expediting the allocation of units to the existing 160 000-plus applicants on the Waiting List to two years, so as to meet grass-root people's demand for PRH;
- (b) to comprehensively review the Quota and Points System for non-elderly one-person applicants, and study the adoption of more effective measures to assist singletons with actual housing need;
- (c) to study the introduction of sandwich-class PRH to enable those households or persons with incomes slightly above the PRH eligibility criteria but without the ability to enter the private residential property market to apply for renting such units subject to certain conditions and time limits, so as to alleviate their rental pressure;
- (d) to review the allocation and eligibility criteria of PRH, with a view to facilitating and encouraging young family members to live with their elderly family members and to care for them;
- (e) to launch a large-scale territory-wide inspection of flat units sub-divided into separate units (commonly known as 'sub-divided units') and take enforcement actions against units contravening the Buildings Ordinance, so as to protect the safety of residents; at the same time, study the expeditious introduction of legislative control on 'sub-divided units', and conduct a general survey and a study on residents of 'sub-divided units', cubicles and cage homes, so as to facilitate the formulation of housing measures to assist these people;

- (f) to review the various eligibility criteria and conditions relating to the purchase and turnover of HOS flats, including the ratio of green forms to white forms in respect of new HOS flats in the future, the arrangements for premium payment for new and old HOS flats, and allowing eligible families to purchase HOS flats in the secondary market without having to pay the premium, so as to expedite the turnover of HOS flats and facilitate people's home acquisition through this channel;
- (g) to formulate long-term and sustainable development strategies for the supply of flats, site identification and financial commitment under various sandwich-class housing projects and HOS projects, so as to prevent such projects being suspended in the end due to policy changes or financial factors, etc.;
- (h) in times of short supply of public housing and subsidized housing, to provide rental assistance and tax concessions to needy applicants waiting for PRH allocation or sandwich-class people eligible for subsidized housing, so as to alleviate their housing burden amid exorbitant rents; and
- (i) to closely monitor the impact of the economic environment and external factors on the private residential property market and people's burden of home mortgages, and timely adjust the relevant policies to prevent drastic fluctuations in the private residential property market.

Question on Hon WONG Kwok-kin's motion proposed.

The President stated that four Members would move amendments to the motion. In accordance with the Rules of Procedure, the motion and the four amendments would be debated together in a joint debate.

Hon Miriam LAU, who would move an amendment, spoke on the motion and the amendments.

Hon WONG Sing-chi, who would move an amendment, declared that he was a member of the Housing Authority. He then spoke on the motion and the amendments.

Ir Dr Hon Raymond HO and Hon LEE Cheuk-yan, who would move amendments, spoke on the motion and the amendments.

The Secretary for Transport and Housing spoke on the motion and the amendments.

Sixteen Members and Hon Ronny TONG spoke on the motion and the amendments.

While Hon Ronny TONG was speaking, the President left the chair at 5:29 pm temporarily and the President's Deputy, Hon Fred LI, took the chair.

Hon CHIM Pui-chung spoke on the motion and the amendments.

At 5:35 pm, while Hon CHIM Pui-chung was speaking, the President resumed the chair.

Another Member spoke on the motion and the amendments.

Hon WONG Kwok-kin spoke on the amendments.

The Secretary for Transport and Housing spoke again.

Hon WONG Sing-chi moved the following amendment to Hon WONG Kwok-kin's motion:

To delete "although" after "That," and substitute with "in order to respond to people's aspiration for acquiring their homes,;" to add "but" after "public demand,;" to add ", including the construction of additional four to six-person flats to shorten the waiting time for such family applicants and bring it broadly in line with the waiting time for small family applicants, so as to enable them to be allocated flats within a reasonable timeframe" after "demand for PRH"; to add ", such as increasing the quota to expedite flat allocation and excluding middle-aged one-person applicants from the points system, so that they may wait for PRH allocation like ordinary family applicants" after "housing need"; to add "and study re-launching Group B PRH of Hong Kong Housing Society to address their housing needs;" after "pressure,;" to add ", and allow applicants to select districts in respect of PRH allocation, such as Hong Kong Island, Kowloon, New Territories East, New Territories West or the outlying islands, which can meet applicants' needs and also expedite flat allocation" after "care for them"; to add ", including assisting them in expeditiously applying for PRH and providing reasonable rehousing for residents affected by clearance" after "assist these people"; to add "and resale" after "premium payment"; to delete "and" after "exorbitant rents,;" and to add "; and (j) to draw up a five-year rolling list of land reserve for public and private housing, with a view to

ensuring a timely supply of land for public and private housing to meet the community's needs" immediately before the full stop.

Question on Hon WONG Sing-chi's amendment to Hon WONG Kwok-kin's motion proposed, put and agreed to.

As Hon WONG Sing-chi's amendment had been passed, the President granted leave for Hon Miriam LAU to revise the terms of her amendment.

Hon Miriam LAU moved the following further amendment to Hon WONG Kwok-kin's motion as amended by Hon WONG Sing-chi, and explained the revised terms of her amendment to the Council:

To add “; (k) to provide a tax allowance for rentals for marginal middle-class people who are unable to purchase their homes and need to rent flats, so as to alleviate their rental burden; (l) as exorbitant property prices have caused an increase in the amount of people's home loans, making their burden of home mortgages increasingly heavy, the Government should consider further extending the current entitlement period for deduction for home loan interest; and (m) to expedite urban renewal and assist in changing the land use of dilapidated factory buildings with higher vacancy rates after premium payment, so as to redevelop them into ‘no-frills’ small and medium sized flats, including flats with limited floor area for Hong Kong people who are first-time home buyers” immediately before the full stop.

Question on Hon Miriam LAU's amendment to Hon WONG Kwok-kin's motion as amended by Hon WONG Sing-chi proposed and put.

Hon LEUNG Yiu-chung claimed a division. The President then ordered the Council to proceed to a division.

The President announced that among the Members returned by functional constituencies, 23 were present, 22 were in favour of the amendment and one against it; while among the Members returned by geographical constituencies through direct elections, 26 were present, 22 were in favour of the amendment and three against it (voting record in **Appendix IV**). Since the question was agreed by a majority of each of the two groups of Members present, he declared that the amendment was passed.

Hon Miriam LAU rose to move the following motion without notice:

That in the event of further divisions in relation to the motion on “Perfecting Hong Kong’s housing policy” or amendments thereto, the Council do proceed to each of such divisions after the division bell has been rung for one minute.

Question on the motion proposed, put and agreed to.

As Hon WONG Sing-chi’s and Hon Miriam LAU’s amendments had been passed, the President granted leave for Ir Dr Hon Raymond HO to revise the terms of his amendment.

Ir Dr Hon Raymond HO moved the following further amendment to Hon WONG Kwok-kin’s motion as amended by Hon WONG Sing-chi and Hon Miriam LAU, and explained the revised terms of his amendment to the Council:

To add “; and (n) to expeditiously announce a land supply policy that meets the housing need in Hong Kong” immediately before the full stop.

Question on Ir Dr Hon Raymond HO’s amendment to Hon WONG Kwok-kin’s motion as amended by Hon WONG Sing-chi and Hon Miriam LAU proposed, put and agreed to.

As the amendments of Hon WONG Sing-chi, Hon Miriam LAU and Ir Dr Hon Raymond HO had been passed, the President granted leave for Hon LEE Cheuk-yan to revise the terms of his amendment.

Hon LEE Cheuk-yan moved the following further amendment to Hon WONG Kwok-kin’s motion as amended by Hon WONG Sing-chi, Hon Miriam LAU and Ir Dr Hon Raymond HO, and explained the revised terms of his amendment to the Council:

To add “; and (o) to reinstate rent control for preventing landlords from increasing rents drastically and terminating tenancy agreements at will, so as to protect the rights and interests of private housing tenants” immediately before the full stop.

Question on Hon LEE Cheuk-yan’s amendment to Hon WONG Kwok-kin’s motion as amended by Hon WONG Sing-chi, Hon Miriam LAU and Ir Dr Hon Raymond HO proposed and put.

Hon LEE Cheuk-yan claimed a division. The President then ordered the Council to proceed to a division under Rule 49(5) of the Rules of Procedure.

While the division bell was ringing, Dr Hon Priscilla LEUNG declared that she owned a flat which was putting out to lease.

The President announced that among the Members returned by functional constituencies, 23 were present, eight were in favour of the amendment, 13 against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 19 were in favour of the amendment, one against it and five abstained (voting record in **Appendix V**). Since the question was not agreed by a majority of each of the two groups of Members present, he declared that the amendment was negated.

Hon WONG Kwok-kin replied.

Question on Hon WONG Kwok-kin's motion as amended by Hon WONG Sing-chi, Hon Miriam LAU and Ir Dr Hon Raymond HO put and agreed to.

Vote of no confidence in the Chief Executive

Hon Tanya CHAN moved the following motion and spoke on the motion:

That this Council has no confidence in the Chief Executive, Mr Donald TSANG.

Question on Hon Tanya CHAN's motion proposed.

The Secretary for Constitutional and Mainland Affairs spoke on the motion.

Four Members and Hon Emily LAU spoke on the motion.

While Hon Emily LAU was speaking, the President left the chair at 7:11 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Two other Members spoke on the motion.

The Chief Secretary for Administration spoke on the motion.

At 7:37 pm, while the Chief Secretary for Administration was speaking, the President resumed the chair.

Hon Tanya CHAN replied.

Question on Hon Tanya CHAN's motion put.

Hon Tanya CHAN claimed a division. The President then ordered the Council to proceed to a division.

The President announced that among the Members returned by functional constituencies, 18 were present, four were in favour of the motion, 11 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 14 were in favour of the motion, seven against it and two abstained (voting record in **Appendix VI**). Since the question was not agreed by a majority of each of the two groups of Members present, he declared that the motion was negatived.

Next meeting

The President declared that the next meeting of the Council would be held on 25 April 2012 at 11:00 am.

The Council was adjourned at 7:50 pm.

(Jasper TSANG Yok-sing)
President
Legislative Council

Council Chamber
Hong Kong

25 September 2012