

立法會
Legislative Council

LC Paper No. CB(2) 492/11-12

Ref : CB2/H/5/11

House Committee of the Legislative Council

**Minutes of the 7th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 2 December 2011**

Members present:

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBM, GBS, 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 LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon WONG Ting-kwong, BBS, JP

Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
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 LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon WONG Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun, JP
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man

Members absent:

Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Hon Andrew CHENG Kar-foo
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon Tanya CHAN

Clerk in attendance :

Mrs Sharon TONG Clerk to the House Committee

Staff in attendance :

Ms Pauline NG Secretary General
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 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
Mrs Pandora CHAN	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Miss Kitty CHENG	Assistant Legal Adviser 5
Mr YICK Wing-kin	Assistant Legal Adviser 8
Miss Evelyn LEE	Assistant Legal Adviser 10
Miss Josephine SO	Senior Council Secretary (2)7
Ms Judy TING	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

Action

I. Confirmation of the minutes of the 6th meeting held on 25 November 2011

(LC Paper No. CB(2) 442/11-12)

The minutes were confirmed.

II. Matters arising

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

Introduction of bills

2. The Chairman said that she had once again reminded CS on the need for early introduction of bills on the Legislative Programme. CS had responded that the Administration would introduce the bills into the Legislative Council ("LegCo") as soon as possible in accordance with the Legislative Programme.

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)

Mediation Bill

(LC Paper No. LS 11/11-12)

3. The Chairman said that the Bill sought to provide a regulatory framework in respect of certain aspects of the conduct of mediation. The Panel on Administration of Justice and Legal Services had been consulted on the legislative proposals on 21 July 2011 and members had expressed divergent views on the need for the enactment of a Mediation Ordinance.

4. Dr Margaret NG 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: Dr Margaret NG, Mr LAU Kong-wah and Ms Miriam LAU.

5. The Chairman said that the Bills Committee on this Bill would be placed on the waiting list.

(b) Legal Service Division report on subsidiary legislation gazetted on 25 November 2011 and tabled in Council on 30 November 2011

(LC Paper No. LS 10/11-12)

6. The Chairman said that only one item of subsidiary legislation, i.e. the Prisons (Amendment) Order 2011, was gazetted on 25 November 2011 and tabled in the Council on 30 November 2011.

7. Members did not raise any queries on this item of subsidiary legislation.

8. The Chairman reminded Members that the deadline for amending this item of subsidiary legislation was 21 December 2011.

IV. Further business for the Council meeting of 7 December 2011

(a) Tabling of papers

Report No. 5/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2) 444/11-12 issued vide LC Paper No. CB(3) 190/11-12 dated 1 December 2011)

9. The Chairman said that the Report covered two items of subsidiary legislation, the period for amendment of which would expire on 7 December 2011. No Member had indicated intention to speak on the subsidiary legislation.

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10. Members noted the Report.

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

(i) **Inland Revenue (Amendment) (No. 2) Bill 2011**

(ii) **Pyramid Schemes Prohibition Bill**

11. The Chairman said that the relevant Bills Committees on the above two Bills had reported to the House Committee at the last meeting, and Members did not raise objection to the resumption of the Second Reading debates on the Bills.

V. Business for the Council meeting of 14 December 2011

(a) **Questions**

(LC Paper No. CB(3) 185/11-12)

12. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the meeting.

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

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

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

General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011

14. The Chairman said that at the last House Committee meeting, Members considered it not necessary to form a Bills Committee to study the Bill and did not raise objection to the resumption of the Second Reading debate on the Bill.

(d) **Government motion**

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

(e) **Members' motions**

- (i) **Motion on "Capitalizing on the opportunity presented by the building of a cruise terminal to develop Kowloon East into a business and tourism district"**

(Wording of the motion issued vide LC Paper No. CB(3) 192/11-12 dated 1 December 2011.)

- (ii) **Motion on "Alleviating the difficulties of small and medium enterprises in taking out insurance"**

(Wording of the motion issued vide LC Paper No. CB(3) 193/11-12 dated 1 December 2011.)

16. The Chairman said that the above motions would be moved by Mr Paul TSE and Mr Tommy CHEUNG respectively and the wording of the motions had been issued to Members.

17. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 7 December 2011.

Report on study of subsidiary legislation

18. The Chairman invited Members to note the list containing one item of subsidiary legislation, i.e. the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011 ("Amendment Notice"), tabled at the meeting, the scrutiny period of which would expire on 14 December 2011. Members who wished to speak on the Amendment Notice should indicate their intention by 5:00 pm on Tuesday, 6 December 2011. She added that the relevant Subcommittee on the Amendment Notice would report under agenda item VI(b) below.

VI. Report of Bills Committees and subcommittees

- (a) **Report of the Bills Committee on Road Traffic (Amendment) Bill 2011**

(LC Paper No. CB(1) 478/11-12)

19. The Chairman, in her capacity as Chairman of the Bills Committee, reported that the Bills Committee had held six meetings and had received views from the public and representatives of the trades. She referred Members to the Bills Committee's report for details of its deliberations.

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20. The Chairman elaborated that the objects of the Bill included introducing stricter controls over drug driving; providing the Police with the necessary enforcement powers to combat drug driving; and other related amendments. Members of the Bills Committee in general supported the legislative intent of the Bill to combat drug driving. In the course of deliberation, members had expressed concerns about the proposed penalties for the new drug driving offences; the adequacy of the proposed defence provision; and the administration of the preliminary drug tests and safeguards to prevent abuse of power by the Police. The Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 14 December 2011.

21. The Chairman reminded Members that the deadline for giving notice of Committee Stage amendments, if any, was Monday, 5 December 2011.

(b) Report of the Subcommittee on Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011

22. Mr James TO, Chairman of the Subcommittee, gave a verbal report on the deliberations of the Subcommittee. He said that the Companies Ordinance (Cap. 32) ("CO") required a valuation report to be set out in a prospectus to contain specified particulars with respect to all interests in land or buildings ("property interests") of a company and its subsidiaries ("group") if the property interests had a value exceeding 10% of the group's assets or had a value of not less than \$3,000,000 as disclosed in the group's last accounts. The Amendment Notice was to relax the requirements for valuation and disclosure of property activities interests for prospectuses by allowing different requirements to apply to different property interests.

23. Mr James TO elaborated on the proposed exemptions. A company would be exempted from setting out a valuation report in a prospectus as to the value of each property interest which was a property activities interest having a carrying amount of less than 1% of the group's total assets, provided that the carrying amounts of all such property activities interests when added together did not exceed 10% of the group's total assets. The exemption also applied to non-property activities interest which had a carrying amount of less than 15% of the group's total assets. Subject to certain conditions, a summary disclosure of the valuation report or an overview of property interests in a prospectus was allowed. The full text of the valuation report with respect to each non-exempted property interest was required to be included in the prospectus.

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24. Mr James TO further reported that the Subcommittee had held four meetings and had met with the Administration and the Securities and Futures Commission ("SFC") at three of the meetings. The Subcommittee considered the proposed exemptions too loose and was concerned that prospectuses issued by companies did not provide sufficient and comprehensive information on their property interests to facilitate investors in making investment decisions. The Subcommittee had discussed with SFC on different options to improve the proposals, but SFC was of the view that the proposals had already struck a proper balance of different needs including reducing the compliance cost on companies; reducing the bulk of prospectuses and hence be more environmental friendly in the production of prospectuses; attracting international corporations to apply for listing in Hong Kong; enhancing Hong Kong's competitiveness as an international financial centre; and providing investors with information presented in a more focused and meaningful manner. As such, SFC did not consider it necessary to amend the proposals.

25. Mr James TO said that the Subcommittee noted that under section 38A(1) of CO, SFC might, on the request of an applicant, exempt any class of prospectuses issued by companies from compliance with the relevant requirements. The Subcommittee was of the view that the proper exercise by SFC of its power under section 38A(1) would allow companies more flexibility, while the proposed exemptions under the Amendment Notice might affect the exercise of the discretionary power by SFC.

26. Mr James TO further said that at the meeting held on the day before the House Committee meeting, members agreed unanimously that he as Chairman of the Subcommittee would move a motion on behalf of the Subcommittee at the Council meeting of 14 December 2011 to repeal the Amendment Notice. The Subcommittee had urged Administration to consider repealing the Amendment Notice. Should the Administration decide to move a motion to repeal the Amendment Notice by 6 December 2011, he would not move the repeal motion. The deadline for giving notice of amendments (including repeal) was 7 December 2011. The Subcommittee would provide a written report later.

27. Mr WONG Ting-kwong considered it prudent for the Subcommittee to hold a further meeting with Administration and SFC before proceeding with its decision to move a motion to repeal the Amendment Notice.

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28. Mr James TO said that at the Subcommittee meeting held on the day before the House Committee meeting, the Administration and SFC had indicated that they had no further information to provide for members' consideration. In his telephone conversation with representatives of the Administration and SFC in the morning of the day of the House Committee meeting, he had asked them whether it was necessary to hold a further meeting and they had not indicated such a need.

29. Mr WONG Ting-kwong reiterated his request for the Subcommittee to hold another meeting with the Administration and SFC to further discuss the Amendment Notice before proceeding with the repeal motion.

30. Mr James TO said that he would ask the Clerk to the Subcommittee to follow up with the Administration regarding Mr WONG Ting-kwong's request.

31. The Chairman said that should Mr James TO give notice to move a motion to repeal the Amendment Notice, Members would have the opportunity to speak on the Amendment Notice, in which case she would not move a motion in her capacity as Chairman of the House Committee to take note of the Report in relation to the Amendment Notice.

32. Mr James TO said that Members would also have the opportunity to speak on the Amendment Notice should the Administration give notice to move a motion to repeal it.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 443/11-12)

33. The Chairman said that there were 15 Bills Committees, nine subcommittees under the House Committee (i.e. four subcommittees on subsidiary legislation, two subcommittees on policy issues and three subcommittees on other Council business) and eight subcommittees under Panels in action.

34. The Chairman further said that as there was one vacant slot after the Bills Committee on Road Traffic (Amendment) Bill 2011 had reported under agenda item VI(a) above, the Bills Committee on Fisheries Protection (Amendment) Bill 2011 on the waiting list could commence work. One Bills Committee (i.e. the Bills Committee on Mediation Bill) and one subcommittee on policy issues (i.e. the Subcommittee on Health Protection Scheme under the Panel on Health Services) were still on the waiting list.

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VIII. Report on the duty visit of the delegation of the Legislative Council to the Asian Parliamentary Assembly Conference on Principles of Friendship and Cooperation in Asia and the Ad Hoc Committee Meeting on Protection of the Rights of Migrant Workers in Asia held in the Republic of Indonesia

(LC Paper No. LS 12/11-12)

35. The Chairman, in her capacity as the leading member of the delegation, reported that the LegCo delegation visited Solo, Central Java Province, the Republic of Indonesia from 27 to 29 September 2011 to attend as guest of the Indonesian House of Representatives the Asian Parliamentary Assembly Conference on Principles of Friendship and Cooperation in Asia and the Ad Hoc Committee Meeting on the Protection of the Rights of Migrant Workers in Asia ("Ad Hoc Committee Meeting").

36. The Chairman further said that at the Ad Hoc Committee Meeting held on 28 September 2011, she had presented on behalf of the delegation the paper entitled "Protection of the Rights of Migrant Workers in the Hong Kong Special Administrative Region ("HKSAR")", highlighting the legislation and administrative measures adopted by HKSAR to protect migrant workers as well as the support provided to migrant workers. The LegCo delegation had also exchanged views with the parliamentarians of other Asian countries during the Conference. She referred Members to the delegation's report for details of the duty visit.

IX. LegCo Fun Day 2012

(LC Paper No. AS 44/11-12)

37. The Chairman said that a LegCo Fun Day was normally held in the last legislative session of each LegCo term. She invited Members' views on the proposals for holding the LegCo Fun Day for the Fourth LegCo towards the end of March 2012, and forming an organizing committee chaired by the Chairman of the House Committee and comprising Members and representatives of the LegCo beat reporters to decide on the details of the Fun Day.

38. Members agreed to the proposals.

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X. Proposals for asking urgent oral questions under Rule 24(4) of the Rules of Procedure at the Council meeting of 7 December 2011 relating to the fire in Fa Yuen Street

- (a) **Dr Hon Priscilla LEUNG's proposed oral question**
(Letter dated 30 November 2011 from Dr Hon Priscilla LEUNG to the Chairman of the House Committee (LC Paper No. CB(2) 462/11-12(01))
- (b) **Hon James TO's proposed oral question**
(Letter dated 1 December 2011 from Hon James TO to the Chairman of the House Committee (LC Paper No. CB(2) 462/11-12(02))
- (c) **Hon WONG Yuk-man's proposed oral question**
(Letter dated 1 December 2011 from Hon WONG Yuk-man to the Chairman of the House Committee (LC Paper No. CB(2) 466/11-12(01))
- (d) **Hon Alan LEONG's proposed oral question**
(Letter dated 1 December 2011 from Hon Alan LEONG to the Chairman of the House Committee (LC Paper No. CB(2) 474/11-12(01))
- (e) **Hon Starry LEE's proposed oral question**
(Letter dated 2 December 2011 from Hon Starry LEE to the Chairman of the House Committee (LC Paper No. CB(2) 474/11-12(02))

39. The Chairman said that five Members, namely, Dr Priscilla LEUNG, Mr James TO, Mr WONG Yuk-man, Mr Alan LEONG and Ms Starry LEE had raised proposals respectively for asking urgent oral questions under Rule 24(4) of the Rules of Procedures ("RoP") at the Council meeting of 7 December 2011 relating to the fire in Fa Yuen Street. Given the gravity of the matter, she had given approval for the proposals to be discussed at the House Committee meeting although all of them were raised after the deadline for proposing agenda items for the meeting. She invited the five Members concerned to briefly speak on their proposed questions.

40. Prof Patrick LAU spoke on behalf of Dr Priscilla LEUNG who was unable to attend the House Committee meeting. He said that the tragic event had aroused grave public concern and appealed to Members to support Dr LEUNG's proposal.

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41. Mr James TO said that five Members had proposed to ask urgent oral questions on the fire in Fa Yuen Street given the grave public concern on the matter. He was concerned about possible overlaps in the content of the five proposed questions. Should there be any overlap in the questions, he suggested that the overlapped parts should only be asked by the Member who submitted the question earlier, so as to facilitate a more focused discussion.

42. Mr WONG Yuk-man said that as a LegCo Member returned from the Kowloon West Geographical Constituency, he was deeply concerned about the tragic fire in Fa Yuen Street, which was even more serious than the one which broke out in the same street last year. His question mainly focused on issues relating to hawker stalls and the sub-division of flat units. He pointed out that various Government Departments including the Fire Services Department and the Home Affairs Department had to bear responsibility for the tragic event.

43. Mr Alan LEONG said that Members belonging to the Civic Party were deeply concerned about the matter. The focus of his question is on whether the Administration would consider requiring hawker stall owners and operators to dismantle the hawker stalls every night after business hours, and whether financial assistance would be provided to the victims of the tragedy, including stall owners and operators.

44. Ms Starry LEE said that as the questions proposed by Members had different focuses, she hoped that the House Committee could support the asking of these urgent oral questions at the Council meeting. Her question mainly focused on the problem of obstruction of fire escape passageways in old residential buildings, and arrangements of hawker stalls to enhance fire safety.

45. The Chairman said that she had discussed with the Secretariat on the arrangement for raising the five urgent oral questions. The Secretariat would liaise with the five Members concerned to avoid overlaps in the content of their questions. To ensure the smooth conduct of the question session, the House Committee could consider recommending to the President the following arrangement: each of the five Members to ask their respective questions and the Administration to respond after each question first before Members asking supplementary questions on the five oral questions in one go.

46. At the invitation of the Chairman, Secretary General ("SG") said that the arrangement mentioned by the Chairman had been adopted at a Council meeting in the past.

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47. Ms Emily LAU enquired whether there had been any occasion in the past where the Administration responded to the urgent oral questions raised by Members relating to the same subject matter in one go after the Members concerned had asked the questions. At the invitation of the Chairman, SG replied in the negative.

48. In response to Mr IP Kwok-him's enquiry about the total time allocated for raising the five urgent oral questions, the Chairman said that according to past experience, the President would allow about 20 minutes for each of the urgent oral questions, hence the total time allocated for the five urgent oral questions would be about one hour and 40 minutes.

49. Mr IP Kwok-him hoped that the President would consider slightly shortening the total time allocated for raising the five urgent oral questions.

50. SG said that the President would suitably adjust the time allocated for the oral questions having regard to the number of Members who had requested to ask supplementary questions.

51. Members agreed to the proposals from the five Members for asking urgent oral questions at the Council meeting of 7 December 2011 relating to the fire in Fa Yuen Street. Members also agreed to the arrangement proposed by the Chairman for raising the five urgent oral questions.

XI. Proposal from Hon James TO for moving a motion for adjournment under Rule 16(4) of the Rules of Procedure at the Council meeting of 7 December 2011 for the purpose of debating the following issue: the fire tragedy at Fa Yuen Street in Mong Kok and ways to improve street environment and fire safety of buildings for the purposes of avoiding the recurrence of similar incidents and safeguarding the lives and properties of the public

(Letter dated 2 December 2011 from Hon James TO to the Chairman of the House Committee (LC Paper No. CB(2) 474/11-12(03))

52. The Chairman said that Mr James TO had proposed to move a motion for adjournment under RoP 16(4) at the Council meeting of 7 December 2011 for the purpose of enabling Members to speak on the fire tragedy in Fa Yuen Street. The duration of an adjournment debate moved under RoP 16(4) was normally kept within one and a half hours unless extended by the President. Each Member, including the proposer, might speak for up to five minutes in the debate. The

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President could exercise discretion to extend the duration of the debate beyond one and a half hours so that all Members wishing to speak could do so.

53. Mr WONG Kwok-kin queried the need for asking the five proposed urgent oral questions if an adjournment debate was to be held at the same Council meeting on the same subject matter.

54. Dr Margaret NG said that debates provided a platform for Members to express their views on different subject matters while questions were to elicit replies from the Administration to specific questions. Given their different nature, she expressed support for both the holding of an adjournment debate and the asking of urgent oral questions on the fire tragedy at the Council meeting. She appreciated Members' concerns about the duration of the five urgent oral questions which could be suitably adjusted.

55. Ms Cyd HO said that Government officials seldom responded directly to specific issues during debates. She also expressed support for both the holding of an adjournment debate and the asking of the five urgent oral questions at the Council meeting.

56. The Chairman said that only one motion debate had been scheduled for the Council meeting of 7 December 2011.

57. Members agreed to Mr James TO's proposal for holding an adjournment debate at the Council meeting of 7 December 2011 on the fire in Fa Yuen Street.

58. In response to Mr CHAN Kam-lam, the Chairman said that the proposed adjournment debate would be held at the conclusion of all the business on the Agenda of the Council meeting.

59. There being no other business, the meeting ended at 3:04 pm.