

立法會
Legislative Council

LC Paper No. CB(2) 2183/11-12

Ref : CB2/H/5/11

House Committee of the Legislative Council

**Minutes of the 24th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 25 May 2012**

Members present:

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
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 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 Andrew CHENG Kar-foo
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 Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, 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 CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
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-ye, 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 WONG Yuk-man

Members absent:

Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Paul CHAN Mo-po, MH, JP
Dr Hon LEUNG Ka-lau
Hon LEUNG Kwok-hung
Hon Tanya CHAN
Hon Albert CHAN Wai-yip

Clerk in attendance :

Miss Odelia LEUNG Clerk to the House Committee

Staff in attendance :

Ms Pauline NG Secretary General
Mr Jimmy MA, JP Legal Adviser

Mr Andy LAU	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
Mr Stephen LAM	Acting Senior Assistant Legal Adviser 4
Miss Erin TSANG	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Elyssa WONG	Chief Council Secretary (2)5
Ms Amy YU	Chief Council Secretary (2)6
Mr Bonny LOO	Assistant Legal Adviser 3
Miss Carrie WONG	Assistant Legal Adviser 4
Ms Wendy KAN	Assistant Legal Adviser 6
Ms Clara TAM	Assistant Legal Adviser 9
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

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I. Confirmation of the minutes of the 23rd meeting held on 18 May 2012
(*LC Paper No. CB(2) 2109/11-12*)

The minutes were confirmed.

II. Matters arising

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

Work progress of Council meetings

2. The Chairman said that CS had indicated that the Administration understood the practical procedural difficulties faced by the Council and appreciated Members' hard work in coping with the problems. While the Administration still followed the normal procedure to deal with Government bills before Government motions currently, it would monitor closely the progress with a view to completing the legislative work as far as practicable within the remaining five weeks of the current term of Government.

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(b) **Road Traffic (Registration and Licensing of Vehicles) (Amendment) (No. 2) Regulation 2012**

(Paragraphs 4 to 6 of the minutes of the 23rd House Committee meeting held on 18 May 2012)

(LC Paper No. LS 68/11-12)

3. The Chairman invited Members to note the Legal Service Division's further report on the above Regulation. She said that at the last House Committee meeting, Members did not raise any queries on the Regulation.

4. Members noted the report.

5. The Chairman reminded Members that the deadline for amending the Regulation was 13 June 2012.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 18 May 2012 and tabled in Council on 23 May 2012

(LC Paper No. LS 65/11-12)

6. The Chairman said that a total of seven items of subsidiary legislation (L.N. 96 to L.N. 102) were gazetted on 18 May 2012 and tabled in the Council on 23 May 2012.

7. Regarding the Banking Ordinance (Amendment of Seventh Schedule) Notice 2012 (L.N. 99), the Chairman said that it sought to amend the minimum criteria for authorization under the Seventh Schedule to the Banking Ordinance (Cap. 155) so as to remove the size criteria and the three-year requirement for a company seeking authorization to carry on banking business in Hong Kong. According to the Legislative Council ("LegCo") Brief issued by the Administration, the removal of these requirements would help to enhance Hong Kong's status as an international financial centre as the United Kingdom, the United States of America, Germany, Switzerland, Australia and Singapore imposed no similar requirements. The Panel on Financial Affairs had been briefed on the proposal at its meeting on 2 March 2012. Panel members did not make any adverse comments but raised various questions. In response, the Hong Kong Monetary Authority had provided supplementary information after the meeting. The Notice would come into operation on 12 July 2012.

8. Mr KAM Nai-wai considered it necessary to form a subcommittee to study the Notice in detail. Members agreed. Mr KAM Nai-wai agreed to join the subcommittee.

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9. Regarding the Public Health and Municipal Services (Fees and Charges) (Leisure Facilities) Regulation (L.N. 100), the Chairman said that it sought to introduce the Public Swimming Pool Monthly Ticket Scheme to lighten the financial burden of frequent elderly swimmers and promote swimming among the public. The Panel on Home Affairs ("HA Panel") had been briefed on the proposal at its meeting on 10 February 2012, and members were generally supportive of it. The Regulation would come into operation on 5 July 2012.

10. Mr KAM Nai-wai considered it necessary to form a subcommittee to study the Regulation in detail. Members agreed. Mr KAM Nai-wai agreed to join the subcommittee.

11. The Chairman said that the Secretariat would issue circulars to invite Members to join the two proposed subcommittees. Should less than three Members join any of these subcommittees by the deadline for signification of membership, the subcommittee concerned would not be formed in accordance with the House Rules ("HR"). Members noted the arrangement.

12. Members did not raise any queries on the other five items of subsidiary legislation (L.N. 96 to L.N. 98, L.N. 101 and L.N. 102).

13. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 20 June 2012.

IV. Further business for the Council meeting of 30 May 2012

(a) Tabling of papers

Report No. 20/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments
(LC Paper No. CB(2) 2111/11-12 issued vide LC Paper No. CB(3) 792/11-12 dated 23 May 2012)

14. The Chairman said that the Report covered nine items of subsidiary legislation, the period for amendment of which would expire on 30 May 2012. No Member had indicated intention to speak on the subsidiary legislation.

15. Members noted the Report.

(b) **Questions**
(LC Paper No. CB(3) 791/11-12)

16. The Chairman said that Miss Tanya CHAN had given up the question slot allocated to her and the slot had been taken up by Dr LAM Tai-fai. Mr Albert HO and Mr LEE Wing-tat had replaced their oral questions.

17. Mr Ronny TONG asked about the respective deadline for amending the questions scheduled for the Council meetings of 30 May and 6 June 2012.

18. At the invitation of the Chairman, Assistant Secretary General 3 said that Members might change their questions before the deadline for giving notice of questions for the Council meeting concerned. The deadline for giving notice of questions for the Council meeting of 30 May had expired, and that for the Council meeting of 6 June was Monday, 28 May 2012.

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

Competition Bill

19. The Chairman said that the relevant Bills Committee had reported to the House Committee at the last meeting, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(d) **Members' motions**

- (i) **Proposed resolution to be moved by Hon Fred LI under section 34(4) of the Interpretation and General Clauses Ordinance in relation to the Pesticide Residues in Food Regulation**
(Wording of the proposed resolution issued vide LC Paper No. CB(3) 803/11-12 dated 24 May 2012.)

20. The Chairman said that Mr Fred LI, Chairman of the relevant Subcommittee, would move a motion at the Council meeting of 30 May 2012 to extend the scrutiny period of the above Regulation to 27 June 2012.

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(ii) **Proposed resolution to be moved by Hon James TO under section 34(4) of the Interpretation and General Clauses Ordinance in relation to the Securities and Futures (Futures Contracts) Notice 2012**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 804/11-12 dated 24 May 2012.)

21. The Chairman said that Mr James TO, Chairman of the relevant Subcommittee, would move a motion at the Council meeting of 30 May 2012 to extend the scrutiny period of the above Notice to 27 June 2012.

Meeting arrangements for the Council meeting of 30 May 2012

22. The Chairman said that according to the estimation of the Secretariat, the proceedings on the Committee stage and Third Reading of the Legislative Council (Amendment) Bill 2012 ("LC(A) Bill 2012") would be completed on the third day of the Council meeting of 30 May 2012, i.e. 1 June 2012. Given the large amount of unfinished business stood over from the last few Council meetings, she invited Members' views on the arrangements for the Council meeting of 30 May.

23. Ms Emily LAU noted that the scrutiny period of some items of subsidiary legislation currently under the scrutiny of LegCo would expire soon, and the Chairmen of the relevant Subcommittees had given notices to move motions to extend their scrutiny period. She expressed concern about the consequence if the said motions could not be dealt with at the relevant Council meeting before the expiry of the 28-day scrutiny period.

24. Ms Emily LAU further said that subject to other Members' views, Members belonging to the Democratic Party agreed that the Council meeting of 30 May should stretch over a few days from Wednesday to Saturday or Sunday morning so as to clear the backlog.

25. At the invitation of the Chairman, Secretary General ("SG") said that as at present, 531 Committee Stage amendments ("CSAs") to the LC(A) Bill 2012 had yet to be moved and voted on in the Council. After consultation with Members yesterday, the President had decided to adjourn the Council meeting of 23 May at about 7:00 pm this evening. Any unfinished business on the Agenda for the Council meeting would stand over until the Council meeting of 30 May. In addition to the LC(A) Bill 2012, two other Government bills, namely the Mediation Bill and the Competition Bill, would be dealt with at the Council meeting of 30 May. As regards the four Members' motions for extending the scrutiny period of subsidiary legislation, they would be transacted after the Government

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bills and Government motions. Of these four Members' motions, two of them were originally scheduled for the Council meeting of 23 May. As the scrutiny period of the subsidiary legislation concerned, i.e. the Genetically Modified Organisms (Control of Release) (Exemption) Notice and the six items of subsidiary legislation on discipline made under the relevant disciplined services legislation, would expire on 30 May 2012, the Council meeting of 30 May 2012 would be the last opportunity for extending their scrutiny period. For the remaining two Members' motions on subsidiary legislation respectively related to the Pesticide Residues in Food Regulation and the Securities and Futures (Futures Contracts) Notice 2012, the Council meeting of 6 June 2012 would be the last one for extending their scrutiny period.

26. SG further said that it was estimated that the Committee stage on the LC(A) Bill 2012 would be completed in the evening of Thursday, 31 May and the Third Reading in the morning of Friday, 1 June. This would be followed by the Second Reading debate on the Mediation Bill, which would likely be resumed after the Finance Committee ("FC") meeting in the afternoon of Friday, 1 June. Many Members had indicated to the Secretariat that they would be available on Saturday, 2 June for the continuation of Council meeting. If the Council meeting was to continue on Saturday, the Second Reading debate on the Competition Bill would be resumed on that day, after which the Council could deal with the Government motions, including the Government motion to be moved under the Legal Aid Ordinance, followed by the Members' motions for extension of scrutiny period of the subsidiary legislation. SG added that many Members had indicated that they were unable to attend if the Council meeting was to continue on Sunday, 3 June 2012. Furthermore, a number of committees meetings had been scheduled for the following Monday and Tuesday.

27. Ms Emily LAU considered it important to ensure that the motions for extension of scrutiny period of the subsidiary legislation be dealt with at the Council meeting of 30 May so as not to affect the scrutiny work of the relevant subcommittees.

28. The Chairman said that the Administration had proposed over 100 CSAs to the Competition Bill. She was worried that the proceedings on the Committee stage and Third Reading of the Competition Bill could not be completed on 2 June, in which case the Members' motions on extension of scrutiny period of subsidiary legislation could not be dealt with at the Council meeting of 30 May.

29. At the invitation of the Chairman, SG said that Members might consider continuing the Council meeting beyond 10:00 pm, or resuming

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the Council meeting after the committee meetings had finished at 6:30 pm of the following Monday and Tuesday. The President was agreeable to such arrangements and would like to solicit Members' views in this regard.

30. The Chairman said that the order of business at a Council meeting was stipulated in Rule 18 of the Rules of Procedure ("RoP"). According to RoP 18, Government bills and Government motions would be dealt with first, to be followed by Members' bills, Members' motions with legislative effect, and then other Members' motions without legislative effect.

31. In response to Ms Emily LAU, SG said that while a motion could be moved to suspend the operation of RoP 18, the President had to give priority to Government bills in determining the Agenda of the Council meeting.

32. Mr LEE Wing-tat said that while he had no strong view about resuming the Council meeting of 30 May on the following Thursday, Friday and Saturday, he considered it necessary to reserve some time slots in the subsequent Monday and Tuesday for committee meetings, so as to enable the Bills Committees in action, such as the Bills Committee on Residential Properties (First-hand Sales) Bill, to continue their scrutiny work.

33. Dr Margaret NG said that the moving of the Members' motions to extend the scrutiny period of subsidiary legislation, which were procedural motions, would not take much time. She shared the concern of Ms Emily LAU on the need to give priority to these motions and enquired whether the President had the discretion, subject to the Administration's agreement and Members' views, to adjust the order of the business at the Council meeting of 30 May to first deal with the Members' motions for extending the scrutiny period of subsidiary legislation. As regards the Mediation Bill on which the Second Reading debate would be resumed at the Council meeting of 30 May, she surmised that the time required for the Council to complete the proceedings on the Bill would be no more than one hour. Dr NG further said that the Bills Committee on Legal Practitioners (Amendment) Bill 2010 and the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2012 would soon complete their scrutiny work and report to the House Committee. These two Bills were not controversial but their enactment or otherwise would affect other legislation. She hoped that the Administration would make appropriate arrangements in respect of the Council's processing of Government bills, so that uncontroversial bills could be dealt with first

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ahead of the Competition Bill which was complicated, controversial and involving a large number of CSAs.

34. The Chairman reminded Members to focus their discussion on business which would be dealt with at the Council meeting of 30 May and the arrangements for that Council meeting.

35. Mr Andrew LEUNG said that Members should follow the procedure to deal with the unfinished business on the Agenda for the Council meeting of 30 May. He did not consider it appropriate for Members to change the scheduled order of business in order to give priority to certain items of business which, in their view, were simple and should be dealt with first. He was also not supportive of continuing the Council meeting on Sunday. He noted that Mr Paul TSE and Mr CHIM Pui-chung had earlier on proposed streamlining the voting procedure for the CSAs to the LC(A) Bill 2012. Mr LEUNG Kwok-hung had also asked the President at this morning's Council meeting whether the CSAs to the LC(A) Bill 2012 could be grouped for voting. Should Members wish to expedite the voting procedure on the LC(A) Bill 2012, they could consider supporting the President to suspend the relevant provisions of RoP so that simplified voting arrangements for the Bill could be adopted. He was supportive of such a proposal.

36. Mr Abraham SHEK considered it important for Members to complete the outstanding work of the Council, including the legislative process of the LC(A) Bill 2012. He did not mind attending the Council meeting on Sunday, but objected to some Members' proposal for adjusting the order of business of the Council meeting. He further said that as a result of the prolonged proceedings of the last few Council meetings, many committees had to re-schedule their meetings, resulting in the clash of the meeting time of many committees, such as the Bills Committee on Residential Properties (First-hand Sales) Bill. He expressed dissatisfaction about such situation, which had made it difficult for him and other Members who had joined more than one committee to attend the relevant meetings.

37. Mr IP Kwok-him said that given the large amount of unfinished business of the Council, it was an acceptable arrangement for the Council meeting of 30 May to span over a few days until Saturday, 2 June. He considered it necessary to reserve the following Monday and Tuesday for the holding of committees meetings.

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38. Mr WONG Kwok-hing expressed support for Mr Andrew LEUNG's proposal for suspending the relevant provisions of RoP at the Council meeting of 30 May to allow the President to adopt a simplified voting procedure for the CSAs to the LC(A) Bill 2012. He appealed to Members belonging to the pan-democratic camp to attend the Council meeting during the proceedings on the LC(A) Bill 2012 to avoid the adjournment of the Council meeting due to a lack of quorum.

39. Mr Paul TSE said that Members who triggered or tolerated the problem should reflect on the matter. He pointed out that the damage had been done and it was high time for these Members to co-operate with other Members to resolve the problem. He stressed the importance of fostering co-operation among Members to enable the smooth operation of LegCo.

40. Members agreed to recommend to the President that the Council meeting of 30 May should last four days until Saturday, 2 June, with any unfinished business on the Agenda to stand over until the Council meeting of 6 June.

41. In response to Ms Emily LAU, the Chairman said that the President would suspend the meeting at about 10:00 pm on Wednesday, 30 May and ordered that it be resumed on Thursday, 31 May at 2:30 pm as meetings with District Council members had been scheduled for that morning. As for Friday, 31 May and Saturday, 1 June, the Council meeting would be resumed at 9:00 am. Members also noted that on Friday, 1 June, the President would suspend the Council meeting at 2:30 pm to enable the holding of the House Committee and FC meetings scheduled for that afternoon.

42. Dr Philip WONG said that he did not mind continuing the Council meeting overnight, if necessary.

43. The Chairman said that the above meeting arrangements agreed by Members would be conveyed to the President.

V. Business for the Council meeting of 6 June 2012

(a) **Questions**
(*LC Paper No. CB(3) 790/11-12*)

44. 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**

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

(c) **Government motion**

Proposed resolution under Article 73(7) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and section 7A of the Hong Kong Court of Final Appeal Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 798/11-12 dated 23 May 2012.)

46. The Chairman said that the Subcommittee on Proposed Senior Judicial Appointments had reported to the House Committee at the last meeting, and Members did not raise objection to the proposed judicial appointments

(d) **Members' motions**

(i) **Motion on "Report of the Subcommittee on Retirement Protection"**

(Wording of the motion issued vide LC Paper No. CB(3) 788/11-12 dated 22 May 2012.)

(ii) **Motion to be moved by Dr Hon LAM Tai-fai**

47. The Chairman said that at the last House Committee meeting, Members agreed to the priority allocation of a debate slot to Mr CHEUNG Kwok-che, the Subcommittee's Chairman, for moving a motion on its report at the Council meeting of 6 June 2012.

48. The Chairman said that the wording of the motion to be moved by Dr LAM Tai-fai was pending the President's approval.

49. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 30 May 2012.

Report on study of subsidiary legislation

50. The Chairman invited Members to note the list containing 12 items of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 6 June 2012. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 29 May 2012.

VI. Report of Bills Committees and subcommittees

(a) Report of the Bills Committee on Personal Data (Privacy) (Amendment) Bill 2011

(LC Paper No. CB(2) 2113/11-12)

51. Dr Philip WONG, Chairman of the Bills Committee, reported that the Bills Committee had held 16 meetings to study the Bill and had received views from deputations and individuals at two of the meetings. He referred Members to the Bills Committee's report for details of its deliberations.

52. Dr Philip WONG said that the discussions of the Bills Committee had focused on imposing clearer and more stringent regulatory requirements for the use and provision of personal data for use in direct marketing, as well as enhancing the transparency of the whole regulatory regime, with a view to affording more personal data privacy protection to data subjects. The Bills Committee had discussed at length the regulatory requirements proposed by the Administration and the Privacy Commissioner for Personal Data ("PCPD"), including the need to strike a balance between safeguarding personal data privacy and facilitating business operations; empowering PCPD to provide legal assistance to an aggrieved data subject to institute legal proceedings; making new provisions relating to the powers and liability of PCPD; creating a new offence for the disclosure of personal data obtained without the consent of the data user and imposing a heavier penalty for repeated contravention of enforcement notices.

53. Dr Philip WONG further said that in the light of members' views, the Administration would move relevant CSAs to the Bill. The Bills Committee agreed to the CSAs proposed by the Administration. Ms Cyd HO had indicated that she might move CSAs to the Bill. In response to Ms Cyd HO's views, the Administration had agreed to amend its CSAs to the proposed new section 63D of the Bill. The Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 6 June 2012.

54. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 28 May 2012.

(b) **Report of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011**
(*LC Paper No. CB(1) 1956/11-12*)

55. Mr WONG Ting-kwong, Chairman of the Bills Committee, reported that the Bills Committee had held nine meetings and had invited the public (including relevant business and industry associations, labour unions and professional organizations) to give views on the Bill. The objects of the Bill were to amend the Mandatory Provident Fund Schemes Ordinance (Cap. 485) to provide for a statutory regulatory regime for Mandatory Provident Fund ("MPF") intermediaries to facilitate implementation of the Employee Choice Arrangement and for related matters.

56. Mr WONG Ting-kwong highlighted the main issues deliberated by the Bills Committee, which included –

- (a) adoption of the institution-based regulatory approach;
- (b) registration of intermediaries and the relevant transitional arrangements;
- (c) conduct and other requirements for registered intermediaries and responsible officers;
- (d) supervision, investigation and disciplinary arrangements;
- (e) offence provisions and penalty levels;
- (f) handling of complaints against intermediaries' misconduct;
- (g) avenues for MPF scheme members to seek redress or compensation; and
- (h) arrangements for charging of fees under the new regulatory regime.

57. Mr WONG Ting-kwong further said that in the course of the scrutiny of the Bill, members were mainly concerned about whether the proposed regulatory regime would ensure regulatory consistency and a level playing field; measures to ensure that MPF intermediaries were equipped with the latest knowledge of the MPF system and products; appropriateness of the disciplinary sanctions and penalties under the offence provisions; and waiving of fees in the initial stage of the

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implementation of the new regulatory regime. In response to members' concerns and views, the Administration would move various CSAs to the Bill, including certain technical and drafting amendments. The Bills Committee agreed to the CSAs proposed by the Administration.

58. Mr WONG Ting-kwong added that the Bills Committee had discussed the CSAs proposed by Mr KAM Nai-wai and Mr WONG Sing-chi. Mr KAM Nai-wai's proposed CSAs sought to empower the Mandatory Provident Fund Schemes Authority ("MPFA") to order a MPF intermediary to pay compensation to persons who had sustained financial loss that was attributable to the misconduct of the intermediary. Mr WONG Sing-chi's proposed CSAs were to stipulate that MPFA must give a copy of the notice to a person who had lodged a complaint to MPFA against the regulated person in relation to the matter that MPFA had formed the preliminary view that it should make a disciplinary order, so as to remove the inequitable situation where the regulated person, but not the complainant, was in possession of the relevant information in the settlement negotiation process. Having regard to members' diverse views, Mr KAM Nai-wai and Mr WONG Sing-chi would move the CSAs in their individual capacity. The Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council of 6 June 2012.

59. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday 28 May 2012.

(c) **Report of the Bills Committee on Construction Industry Legislation (Miscellaneous Amendments) Bill 2012**
(*LC Paper No. CB(1) 1955/11-12*)

60. Ir Dr Raymond HO, Chairman of the Bills Committee, reported that the Bills Committee had held four meetings to study the Bill and had received views from the affected organizations and their staff unions as well as relevant trade associations and labour unions.

61. Ir Dr Raymond HO said that the Bill sought to effect organizational change for the amalgamation of the Construction Workers Registration Authority ("CWRA") and the Construction Industry Council ("CIC"); enhance operational efficiency of CIC and cater to the interests of construction workers; make the Construction Workers Registration Ordinance (Cap. 583) binding on the Government; provide for the continuation of the employment contracts for the staff of the CWRA Secretariat upon the amalgamation of CIC and CWRA; and regulate other related matters.

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62. Ir Dr Raymond HO further reported that the Bills Committee supported the policy intent of the Bill to improve the efficiency of the construction workers registration system and the operation of CIC. The main issues deliberated by the Bills Committee included job security and transitional arrangements for the staff concerned; the proposal for allowing extension of the validity of provisional registration; the proposed consolidation of construction-related cards; and how the operational efficiency of CIC and the construction workers registration system could be enhanced upon the amalgamation of CIC and CWRA. The Administration would move CSAs to improve the drafting of certain provisions and effect other minor amendments. Members of the Bills Committee had not indicated intention to propose any CSA to the Bill. The Administration intended to resume the Second Reading debate on the Bill at the Council meeting of 6 June 2012.

63. Ir Dr Raymond HO added that on the day before the House Committee meeting, the Bills Committee received submissions from staff of the CWRA Secretariat expressing concern about the transitional staff arrangements. According to the Administration and CIC, of the 23 staff of the CWRA Secretariat, 16 staff would maintain their current positions. For the other seven staff working in the areas of information technology, finance and accounting as well as public relations, CIC had advised that they would be posted to relevant departments in CIC upon the amalgamation, and such change of position would not have substantial impact on the employment of the staff concerned. The Chairman of CIC had written to assure the Bills Committee that CIC would continue to work with the Development Bureau and CWRA on the transitional staff arrangements. CIC had undertaken to discuss with the CWRA staff before the resumption of the Second Reading debate on the Bill with a view to addressing their concerns.

64. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 28 May 2012.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 2110/11-12)

65. The Chairman said that there were nine Bills Committees, 12 subcommittees under House Committee (i.e. eight subcommittees on subsidiary legislation, two subcommittees on policy issues and two subcommittees on other Council business) and seven subcommittees under Panels in action.

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66. Regarding the Subcommittee on Lifts and Escalators (General) Regulation and Lifts and Escalators (Fees) Regulation, the Chairman said that Members had been informed via a circular dated 21 May 2012 issued by the Secretariat that as only two Members had signified to join the Subcommittee by the deadline for signification of membership, the Subcommittee could not be formed in accordance with rules 21(b) and 26(f) of HR which provided that a subcommittee should consist of not less than three members. Members noted.

VIII. Request for priority allocation of a debate slot to the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products

(LC Paper No. CB(1) 1932/11-12)

67. Ir Dr Raymond HO, Chairman of the Subcommittee, reported that the Subcommittee had completed its work and would table its report at the Council meeting of 6 June 2012. In the past three years, the Subcommittee conducted its work by phases. It held a total of 163 meetings, including 106 hearings to take evidence from 62 witnesses from the Administration, regulators, senior management and frontline staff of banks and investors. Another 57 meetings were held to consider various legal and procedural issues, and to deliberate on the evidence obtained and its draft report.

68. Ir Dr Raymond HO said that the study of the Subcommittee focused on the regulatory regime applicable to retail banks in their distribution of Lehman Brothers-related Minibonds and structured financial products ("LB structured products"); the role played by the Administration and the regulators; and the system and practice employed by retail banks in distributing such products. In addition to its findings and observations, the Subcommittee had also made a number of recommendations in its report.

69. Ir Dr Raymond HO further said that as the issues relating to the LB structured products were of widespread public concern, the Subcommittee considered it necessary for him, in his capacity as Chairman of the Subcommittee, to move a motion for debate on its report at the Council meeting of 13 June 2012 to provide an opportunity for all Members and relevant government officials to express their views on the findings, observations and recommendations of the Subcommittee. The Subcommittee therefore proposed to seek the House Committee's agreement for the priority allocation of a debate slot to him for moving a motion for debate on its report at the Council meeting of 13 June 2012. If the House Committee acceded to the request, the Subcommittee

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suggested that there should only be one other motion debate without legislative effect at that Council meeting. Having regard to the speaking time for debates on the reports of past select committees, the Subcommittee also requested that the speaking time limit for the debate on its report should be 15 minutes for each Member.

70. Members agreed to the Subcommittee's request for priority allocation of a debate slot to its Chairman for moving a motion on its report at the Council meeting of 13 June 2012. Members also agreed that there should only be one other motion debate without legislative effect at that Council meeting and the speaking time for debates on the report should be 15 minutes for each Member.

IX. Paper of the Committee on Rules of Procedure ("CRoP")

Proposed arrangements for the provision of question slots and allocation of time for oral questions at Council meetings

(LC Paper No. CROP 43/11-12)

71. At the invitation of the Chairman, Mr TAM Yiu-chung, Chairman of CRoP, said that at present, each Member might be able to ask on average about three oral questions and eight written questions in a session. With the increase of 10 more Members in the Fifth LegCo, a majority of Members had indicated in the consultation conducted in August 2011 that the average number of oral and written questions that a Member might be able to ask in a session should remain unchanged. Hence, it was necessary to provide additional question slots. To this end, CRoP proposed that for each Council meeting as from the beginning of the Fifth LegCo at which both oral questions and written questions might be asked -

- (a) the number of oral question slots should be increased by one, i.e. from six to seven; and
- (b) the number of written question slots should be increased by two, i.e. from 14 to 16.

72. Mr TAM Yiu-chung said that to implement the proposal to provide additional question slots as set out in paragraph 3 of the paper, it was necessary to amend both RoP and HR.

73. On allocation of time for oral questions, Mr TAM Yiu-chung said that CRoP proposed that -

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- (a) the time used for each oral question at each meeting, including the time for supplementary questions (and follow-up questions), should be limited to 22 minutes; and
- (b) the duration for a Member to ask a main question should not be more than three minutes and that for a public officer to give a main reply should not be more than seven minutes; and the duration for a Member to ask a supplementary question (or follow-up question) should not be more than one minute. Under this proposed arrangement, at least four other Members might be able to ask supplementary questions in addition to the Member who asked the main question.

74. Regarding the proposals in relation to the allocation of time for oral questions as set out in paragraph 4 of the paper, Mr TAM Yiu-chung said that it was only necessary to amend HR. CRoP recommended that the proposed amendments should take immediate effect.

75. Mr TAM Yiu-chung added that the Administration had been informed of CRoP's proposals. The Administration's main concern was that if a question was lengthy or raised a wide range of matters, there could be practical difficulty for the public officer concerned to provide a comprehensive reply within seven minutes. When Members were consulted on the proposals in February 2012, the majority of Members agreed to them.

76. Mr TAM Yiu-chung further said that subject to Members' views on CRoP's proposals, he would later move a motion in his capacity as Chairman of CRoP at a Council meeting to amend RoP. The proposals and amendments to HR relating to the allocation of time for oral questions would take immediate effect.

77. Members supported the proposals put forth by CRoP.

X. Request of Hon LEE Wing-tat for discussing the procedure for scrutinizing the proposals of the re-organization of the Government Secretariat

(Letter dated 22 May 2012 from Hon LEE Wing-tat to the Chairman of the House Committee (LC Paper No. CB(2) 2118/11-12(01)))

78. The Chairman invited Members to note the list setting out the latest position of discussion by LegCo committees on the proposals of the re-organization of the Government Secretariat, which was tabled at the meeting.

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79. At the invitation of the Chairman, Mr LEE Wing-tat said that when he wrote to the Chairman requesting discussion of this item at the House Committee meeting, he was given to understand that the staffing proposals in connection with the proposed re-organization of the Government Secretariat would be submitted to the Establishment Subcommittee ("ESC") and FC for approval after discussion by the Panel on Constitutional Affairs ("CA Panel"). He was concerned that such approach did not conform with the established practice that Panels concerned should be consulted on relevant staffing and financial proposals before their submission to ESC and FC for consideration. He had also written to Dr Margaret NG, Chairman of ESC, seeking clarification on whether it was the established practice that staffing proposals should be considered by the relevant Panels before submission to ESC. Mr LEE stressed that he had no intention of obstructing the implementation of the new organization structure of the Government Secretariat proposed by the Chief Executive-elect ("CE-elect"). His concern was the need to follow the established practice in considering the re-organization proposals. He noted that after he had written the letter, the relevant Panels had arranged meetings to discuss the proposals. He welcomed such arrangements which would provide opportunities for the relevant Panels to discuss the proposals under their purview.

80. Mr LEE Cheuk-yan noted that the CE-elect had proposed to create two Deputy Secretary of Department ("DSoD") posts, i.e. the Deputy Chief Secretary for Administration ("DCS") and the Deputy Financial Secretary ("DFS"), to share the workload of CS and the Financial Secretary respectively to oversee and coordinate cross-cutting policy issues under their portfolios. As the Administration had not provided detailed information on the duties and policy responsibilities of these two DSoD posts so far, he suggested that the Panels concerned should hold joint meetings to discuss these two respective posts.

81. The Chairman said that the Subcommittee to Study the Proposed Legislative Amendments Relating to the Re-organisation of the Government Secretariat ("the Subcommittee") could follow up on the matter referred to by Mr LEE Cheuk-yan.

82. Mr LEE Cheuk-yan considered that the proposals relating to the DSoD posts should be discussed by the relevant Panels as they would impact on the work of these Panels. If the proposals had been considered by the relevant Panels, the Subcommittee could then spend less time on its discussion.

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83. The Chairman said that it would be for the Panels concerned to decide on the need to convene joint meetings.

84. Dr Margaret NG said that the content of Mr LEE Wing-tat's letter to her was largely the same as that of his letter to the Chairman. She had explained to Mr LEE that it was the long established practice that relevant Panels would be consulted on staffing proposals before their submission to ESC for consideration, albeit the absence of express rule providing for such procedure. Dr NG added that as of the day of the House Committee meeting, the Administration had yet to confirm the items to be placed on the agenda for the ESC meeting scheduled for 6 June 2012. Since the ESC meeting on 6 June was the last one scheduled for the current session, she anticipated that the Administration would include the staffing proposals in connection with the re-organization proposals on the agenda for the meeting. In view of Mr LEE Wing-tat's concern, she had already instructed the Clerk to ESC to relay his concern to the Administration.

85. Mr TAM Yiu-chung said that the CA Panel had held two special meetings on 9 and 15 May 2012 to discuss the policy issues relating to the re-organization proposals. The issues raised by Mr LEE Cheuk-yan had also been discussed at the CA Panel meeting. The Subcommittee, which comprised 31 members, had so far met twice. Issues discussed by the Subcommittee included the rationale for the proposed re-organization and the proposed creation of the two DSoD posts, and the Subcommittee had yet to examine the detailed provisions of the relevant resolution, which were technical in nature. The Subcommittee had scheduled three more meetings in May 2012 to further consider the re-organization proposals. If necessary, further meetings might be arranged. Noting that relevant Panels had scheduled meetings to discuss the proposals, he pointed out that the same person, i.e. the Head of the CE-elect's Office ("H/CEEEO"), would be responsible for answering Members' questions on the re-organization proposals at committee meetings, be they meetings of the Subcommittee or Panels.

86. Mr KAM Nai-wai said that when the HA Panel discussed the proposal to set up a new Culture Bureau under the proposed re-organization of the Government Secretariat at its meeting on 22 May 2012, the discussions had focused on the Administration's cultural policy and the candidacy for the new Secretary for Culture ("S for C") post. There was no discussion or conclusion by the Panel on the proposed changes in establishment arising from the proposal to set up a Culture Bureau. He was concerned that the established practice of consulting relevant Panels on staffing proposals before their submission to ESC had

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not been followed in respect of the staffing proposals in connection with the setting up of a Culture Bureau. He considered that it might be necessary for the HA Panel to convene another meeting to discuss the staffing proposals.

87. The Chairman sought information from SG on whether the staffing proposals in connection with the re-organization of the Government Secretariat in 2007 had been considered by the relevant Panels before submission to ESC and FC for approval.

88. SG said that for the re-organization exercise in 2007, the CA Panel had held five meetings between 8 and 26 May 2007 to discuss the proposed re-organization of the policy bureaux and related issues, including the proposed changes in establishment. Other Panels had not scheduled meetings to discuss the staffing proposals.

89. Prof Patrick LAU said that the re-organization proposals had great impact on the work of the Panel on Development ("DEV Panel"). Under the re-organization proposals, the existing Development Bureau and the Transport and Housing Bureau would be restructured into two new bureaux, and the Development Bureau's policy responsibilities on heritage preservation would be transferred to the new Culture Bureau. However, noting that relevant Panels would convene meetings to discuss the proposed restructuring, he considered it not necessary for the DEV Panel to separately hold meetings to discuss the matter. Instead, he had requested the Chairmen of the relevant Panels to invite members of the DEV Panel to participate in their discussions. He added that the distribution of work among the existing Panels should be reviewed should the proposed re-organization of the Government Secretariat be effected.

90. Mr IP Kwok-him said that in response to the request of Mr KAM Nai-wai and Ms Cyd HO, he had agreed to discuss the proposal to set up a new Culture Bureau at the meeting of the HA Panel on 22 May 2012. At the meeting, the HA Panel had focused on discussing the policy aspects of the re-organization proposals and there was no discussion on the changes in establishment arising from the proposals. He considered the Subcommittee formed under the House Committee a more appropriate forum for discussing details of the changes in the Government establishment arising from the re-organization proposals.

91. Mr LAU Kong-wah said that unlike the proposals concerning the establishment of individual bureaux considered by Panels, the proposed re-organization of the Government Secretariat entailed changes in establishments in various bureaux which were inter-related. Hence, he

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considered it more appropriate to follow the arrangements adopted in the re-organization exercise in 2007 under which the staffing proposals were considered in a holistic manner by CA Panel and the relevant subcommittee. Noting that relevant Panels would also convene meetings to discuss issues related to the proposed re-organization, he enquired whether it was feasible for the Secretariat to prepare a summary of questions asked by Members and replies provided by the Administration at various committee meetings for Members' reference. In his view, such information could help to reduce the asking of repetitive questions and facilitate the conduct of the ESC and FC meetings at which the relevant staffing and financial proposals were discussed.

92. At the invitation of the Chairman, SG said that preparation of the requisite information would involve considerable work. She would give some thoughts to this.

93. Mr LAU Kong-wah hoped that during the discussion of the funding proposals relating to the proposed re-organization, the Chairman of FC would ensure the efficient conduct of the meeting in accordance with the relevant principles and avoid repetition of questions or discussion of issues which had already been deliberated.

94. Ms Cyd HO said that at the meeting of the HA Panel on 22 May, members had raised questions on the rationale for and the policy objectives of the proposed creation of a Culture Bureau. According to her understanding, the discussions of the HA Panel at that meeting should be considered as consultation by the Administration with the Panel on the relevant proposals before their submission to ESC and FC. She hoped that other relevant Panels would also have the opportunity to discuss the re-organization proposals before they were considered by ESC and FC.

95. Dr PAN Pey-chyou opined that given the wide range of policy areas involved in the proposed re-organization, it would be more appropriate for Members to consider the proposals from a holistic manner which, in his view, was a better approach than scrutiny of the proposals by individual Panels. He shared the view that the Subcommittee was a more appropriate forum for Members to discuss the re-organization proposals. In his view, Members should follow the practice adopted in the past for discussing the present proposals for re-organization of the Government Secretariat.

96. Mr LEE Wing-tat expressed resentment at the remarks made in an CE-elect's article published in several newspapers that the holding of meetings by Panels to discuss the re-organization proposals might be a form of filibustering. He criticized CE-elect for interfering in LegCo

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affairs. In his view, members of the public could differentiate whether a Member was asking a reasonable question or employing the filibustering tactic. He stressed that in response to members' request, the Panel on Housing had scheduled to discuss the proposed re-organization at its meeting on 4 June 2012. Should members consider that there was not sufficient time for discussion at the meeting, he, as Chairman of the Panel on Housing, would seriously consider the need for holding another meeting having regard to members' views. He further said that in line with the established practice, before concluding the relevant discussions at the Panel meeting on 4 June, members would be invited to indicate their support or otherwise for submitting the staffing proposals to ESC.

97. Ms Audrey EU said that she objected to the request of Mr LAU Kong-wah for compilation by the Secretariat of a summary of questions raised by Members on the re-organization proposals at various committee meetings as she did not consider it necessary to do so. In her view, the fact that a question had been raised did not necessarily mean that it had been answered or the issue had been addressed and hence, the right of other Members to ask the same question again should not be restricted. She was also concerned about the already heavy workload of the Secretariat and stressed that it should be the responsibility of the CE-elect's Office and the Constitutional and Mainland Affairs Bureau to provide information to answer Members' questions on the re-organization proposals.

98. The Chairman said that the FC Procedure had clear provisions governing the contents of questions raised at FC meetings. She believed that the Chairman of FC would exercise her judgement in accordance with the FC Procedure in determining whether Members' questions were in order.

99. Ms Emily LAU said that she had all along chaired the FC meetings in a fair, impartial and independent manner. She would work closely with the Secretariat to ensure the smooth and efficient conduct of the FC meeting on 15 June 2012. While agreeing that repetition of questions should be avoided as far as practicable, she shared the view that the fact that a question had been raised before did not necessarily mean that it was repetitive. She appealed to Members to put across their questions in writing so that they could be forwarded to the Administration for written response before the relevant FC meeting.

100. Dr Margaret NG said that whether a question could be asked at a committee meeting depended on the circumstances. It was not appropriate for a chairman to pre-empt the questions raised by Members or rule out the possibility of asking certain questions simply because

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similar questions had been raised at other committee meetings. The Secretariat had already had heavy workload and Members should consider the usefulness of certain information before requesting the Secretariat to compile it.

101. Mr LAU Kong-wah clarified that his suggestion of compiling a summary of questions raised by Members on the re-organization proposals was to facilitate the smooth conduct of the relevant ESC and FC meetings. He had no intention of imposing any restriction on the raising of questions by Members.

102. There being no other business, the meeting ended at 4:00 pm.

Council Business Division 2
Legislative Council Secretariat
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