

立法會  
*Legislative Council*

LC Paper No. CB(2) 124/12-13

Ref : CB2/H/5/12

**House Committee of the Legislative Council**

**Minutes of the 4th meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 26 October 2012**

**Members present:**

Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)

Hon Ronny TONG Ka-wah, SC (Deputy Chairman)

Hon Albert HO Chun-yan

Hon LEE Cheuk-yan

Hon James TO Kun-sun

Hon CHAN Kam-lam, SBS, JP

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

Hon Emily LAU Wai-hing, JP

Hon TAM Yiu-chung, GBS, JP

Hon Tommy CHEUNG Yu-yan, SBS, JP

Hon Frederick FUNG Kin-kee, SBS, JP

Hon WONG Kwok-hing, MH

Hon Jeffrey LAM Kin-fung, GBS, JP

Hon WONG Ting-kwong, SBS, JP

Hon Cyd HO Sau-lan

Hon Starry LEE Wai-king, JP

Dr Hon LAM Tai-fai, SBS, JP

Hon CHAN Hak-kan, JP

Hon CHAN Kin-por, BBS, JP

Dr Hon Priscilla LEUNG Mei-fun, JP

Dr Hon LEUNG Ka-lau

Hon CHEUNG Kwok-che

Hon WONG Kwok-kin, BBS

Hon IP Kwok-him, GBS, JP

Hon Mrs Regina IP LAU Suk-yee, GBS, JP

Hon Paul TSE Wai-chun, JP

Hon Alan LEONG Kah-kit, SC

Hon LEUNG Kwok-hung

Hon Albert CHAN Wai-yip

Hon WONG Yuk-man  
Hon Claudia MO  
Hon James TIEN Pei-chun, GBS, JP  
Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin  
Hon Frankie YICK Chi-ming  
Hon WU Chi-wai, MH  
Hon YIU Si-wing  
Hon Gary FAN Kwok-wai  
Hon Charles Peter MOK  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan  
Dr Hon Kenneth CHAN Ka-lok  
Hon CHAN Yuen-han, SBS, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Kenneth LEUNG  
Hon Alice MAK Mei-kuen, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Hon Christopher CHEUNG Wah-fung, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon SIN Chung-kai, SBS, JP  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, JP  
Hon Martin LIAO Cheung-kong, JP  
Hon POON Siu-ping, BBS, MH  
Hon TANG Ka-piu  
Dr Hon CHIANG Lai-wan, JP  
Ir Dr Hon LO Wai-kwok, BBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP  
Hon Tony TSE Wai-chuen

**Members absent:**

Hon LEUNG Yiu-chung  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Vincent FANG Kang, SBS, JP  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon MA Fung-kwok, SBS, JP  
Hon Dennis KWOK  
Dr Hon Helena WONG Pik-wan

**Clerk in attendance :**

Miss Flora TAI

Clerk to the House Committee

**Staff in attendance :**

Mr Kenneth CHEN, SBS	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mrs Justina LAM	Deputy Secretary General
Mr Andy LAU	Assistant Secretary General 1
Miss Odelia LEUNG	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
Miss Erin TSANG	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Alice LEUNG	Chief Council Secretary (2)2
Ms Amy YU	Chief Council Secretary (2)6
Miss Kitty CHENG	Assistant Legal Adviser 5
Ms Wendy KAN	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Miss Josephine SO	Senior Council Secretary (2)2
Mr Jove CHAN	Senior Council Secretary (2)6
Ms Judy TING	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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**I. Confirmation of the minutes of the 3rd meeting held on 19 October 2012**  
*(LC Paper No. CB(2) 71/12-13)*

The minutes were confirmed.

**II. Matters arising**

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

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Address by the Chief Executive ("CE") to the Council

2. The Chairman said that he and the Deputy Chairman had conveyed to CS the various views of Members on CE's decision not to take any Members' questions after his address at the Council meeting of 17 October 2012. CS had indicated that she would reflect Members' views to CE seriously.

Meeting-cum-luncheons between Legislative Council ("LegCo") Members and District Council ("DC") members

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3. The Chairman said that he had informed CS that Members had agreed to adopt enhancement measures to improve the efficacy of the meetings between LegCo Members and members of DCs. He had also reflected to CS Members' view that the same issues were often brought up for discussion by DC members time and again each year, owing to the Administration's failure to address the issues, hence affecting the efficacy of the meetings. CS had indicated that in response to requests made by various DCs for installation of lifts at walkways, the Administration had recently implemented a new policy to provide a "universally accessible" environment. The policy of "addressing district issues at the district level" advocated by CE would be more effective in resolving district issues.

Attendance of CS at a House Committee meeting

4. The Chairman said that CS had advised that the Administration proposed to establish a Policy and Project Co-ordination Unit ("PPCU") to support her in formulating cross-cutting policies, including the provision of secretariat services for the newly established Poverty Commission and the Steering Committee on Population Policy. PPCU would monitor the progress of the implementation of cross-cutting policies, as well as co-ordinate and support land development and other projects which were conducive to fulfilling the Government's policy objectives. The Administration also proposed the creation of two supernumerary directorate posts of head and deputy head of PPCU, which were pitched at Administrative Officer Staff Grade B and Administrative Officer Staff Grade C respectively.

5. The Chairman further said that since both poverty alleviation and population policy straddled various policy portfolios, CS had expressed her wish to attend a House Committee meeting on 9 November 2012 to brief Members on the major directions of the future work of the Poverty Commission and the Steering Committee on Population Policy, as well as the justifications for the creation of the aforesaid posts.

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6. Members agreed to hold a special House Committee meeting on 9 November 2012 to discuss the issues proposed by CS.

**III. Business arising from previous Council meetings**

**Legal Service Division report on subsidiary legislation and non-legislative instrument gazetted on 19 October 2012**

*(LC Paper No. LS 5/12-13)*

7. At the invitation of the Chairman, Legal Adviser ("LA") said that a total of 12 items of subsidiary legislation, including six Commencement Notices, and the Third Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences ("Third Technical Memorandum") were gazetted on 19 October 2012 and tabled in the Council on 24 October 2012.

8. Regarding the Banking (Capital) (Amendment) Rules 2012 (L.N. 156), the Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2012 (L.N. 157) and the Banking (Amendment) Ordinance 2012 (Commencement) Notice 2012 (L.N. 158), LA said that they were to provide for the first phase implementation in Hong Kong of Basel III. L.N. 156 and L.N. 157 would come into operation on 1 January 2013, while L.N. 158 was to appoint 1 January 2013 as the day on which certain provisions of the Banking (Amendment) Ordinance 2012 would come into operation. The Panel on Financial Affairs had been briefed on the legislative proposals at its meeting on 4 June 2012, and some members had expressed concern on whether additional costs would be incurred by authorized institutions, in particular small and medium-sized ones, in complying with Basel III. The Legal Service Division was still scrutinizing the legal and drafting aspects of L.N. 156 and would make a further report if necessary.

9. Mr James TIEN noted that the implementation of Basel III would begin in January 2013, with the regulatory standards being phased-in over the subsequent six years to achieve full implementation by 1 January 2019. Having regard to the implementation of Basel III in Europe and the importance of financial services in Hong Kong, he considered it necessary to form a subcommittee to study these three items of subsidiary legislation in detail. Members agreed. Mr James TIEN, Mr NG Leung-sing and Mr SIN Chung-kai agreed to join the subcommittee.

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10. Regarding the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Malaysia) Order (L.N. 159) and the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (United Mexican States) Order (L.N. 160), LA said that the two Orders were made by CE in Council under the Inland Revenue Ordinance (Cap. 112) to give effect to the comprehensive agreements for avoidance of double taxation ("CDTAs") signed between the Government of the Hong Kong Special Administrative Region ("HKSAR Government") and the Government of Malaysia and the United Mexican States respectively ("the Malaysian Agreement" and "the Mexican Agreement"). These two Agreements were respectively the twenty-fourth and twenty-fifth CDTA concluded by Hong Kong with other jurisdictions, and the two Orders would come into operation on 14 December 2012. The Panel on Financial Affairs had not been consulted on the two Orders.

11. Mr Ronny TONG sought information from LA on whether the criteria for affording relief from double taxation under the Malaysian Agreement and the Mexican Agreement were the same as those concluded between the HKSAR Government and other jurisdictions.

12. LA said that the criteria were generally the same as those for other CDTAs. The two Agreements had also adopted all the safeguards in the sample Exchange of Information Article ("sample EoI Article").

13. Mr James TO considered it necessary to ensure that the two Agreements did not deviate from the sample EoI Article, and proposed that a subcommittee be formed to study the two Orders in detail. Members agreed. Mr James TO agreed to join the subcommittee.

14. Regarding the Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2012 (L.N. 161) and the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2012 (L.N. 162) made under the Telecommunications Ordinance (Cap. 106), LA said that they sought respectively to designate an additional frequency band, namely, MHz 2635-2660, within which the use of spectrum was subject to the payment of spectrum utilization fee and to prescribe auction as the method for determining the spectrum utilization fee. These two items of subsidiary legislation would come into operation on 14 December 2012.

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15. Mr Charles MOK considered it necessary to form a subcommittee to study these two items of subsidiary legislation in detail. Members agreed. Mr Charles MOK, Mr SIN Chung-kai and Dr Elizabeth QUAT agreed to join the subcommittee.

16. Regarding the Mediation Ordinance (Commencement) Notice (L.N. 167), LA said that it sought to appoint 1 January 2013 as the day on which the Mediation Ordinance would come into operation. The Bills Committee on Mediation Bill had taken note of the Administration's timetable for implementing the Ordinance.

17. Ms Cyd HO said that during the course of scrutinizing the Mediation Bill, members of the Bills Committee had enquired about the development of an accreditation system of mediators and the regulatory framework for mediation, and the Administration had not provided any concrete responses. She considered it necessary to obtain information from the Administration on the latest developments in these areas, and proposed that a subcommittee be formed to study the Commencement Notice in detail. Members agreed. Mr Albert HO, Mr James TO, Ms Cyd HO, Mr CHEUNG Kwok-che and Dr Kenneth CHAN agreed to join the subcommittee.

18. As regards the Third Technical Memorandum (S.S. No. 5 to Gazette No. 42/2012) made under the Air Pollution Control Ordinance (Cap. 311), LA said that while it was not subsidiary legislation, it was subject to the amendment procedure prescribed in Cap. 311 which was similar to that prescribed in section 34 of the Interpretation and General Clauses Ordinance (Cap. 1). The Third Technical Memorandum sought to allocate from the emission year of 2017 the quantities of emission allowances for the three specified pollutants, namely sulphur dioxide, nitrogen oxides and respirable suspended particulates, for each of the power plants in Hong Kong. The allowances were reduced from those allowed under the Second Technical Memorandum issued in 2010. The Third Technical Memorandum also required the emission allowances to be reviewed not less than once in every two years. The two local power companies had been consulted on the proposal and supported the reduction.

19. Mr SIN Chung-kai considered that it was necessary to form a subcommittee to study the Third Technical Memorandum in detail, given its significant impact on the public. Members agreed. Ms Cyd HO, Mr WU Chi-wai, Dr Kenneth CHAN and Mr SIN Chung-kai agreed to join the subcommittee.

20. The Chairman said that the Secretariat would issue circulars to invite Members to join the proposed subcommittees.

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21. Members did not raise any queries on the other four items of subsidiary legislation (L.N. 163 to L.N. 166).

22. The Chairman reminded Members that the deadline for amending the subsidiary legislation and the Third Technical Memorandum was 21 November 2012, or 12 December 2012 if extended by a resolution of the Council.

**IV. Further business for the Council meeting of 31 October 2012**

**Questions**

*(LC Paper No. CB(3) 70/12-13)*

23. The Chairman said that Dr Kenneth CHAN had replaced his oral question.

**V. Business for the Council meeting of 7 November 2012**

**(a) Questions**

*(LC Paper No. CB(3) 69/12-13)*

24. 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**

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

**(c) Government motion**

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

**(d) Members' motions**

**(i) Motion on "Equal rights for people of different sexual orientations"**

*(Wording of the motion issued vide LC Paper No. CB(3) 73/12-13 dated 25 October 2012.)*

27. The Chairman said that the above motion would be moved by Ms Cyd HO.

**(ii) Motion to be moved by Hon WONG Kwok-hing**

28. The Chairman said that the subject of the motion to be moved by Mr WONG Kwok-hing was "Perfecting housing policy and resolving public housing need". The wording of the motion had been issued to Members.

29. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 31 October 2012.

Report on study of subsidiary legislation

30. The Chairman invited Members to note the list containing six items of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 7 November 2012. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 30 October 2012.

**VI. Report of Bills Committees and subcommittees**

**Report of the Subcommittee on Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No.2) Order 2012**

31. Ms Cyd HO, Chairman of the Subcommittee, gave a verbal report on the work of the Subcommittee. She said that the Subcommittee had held one meeting to discuss the Amendment Order with the Administration and the West Kowloon Cultural District Authority ("WKCD"). The Amendment Order stated that the West Kowloon Waterfront Promenade ("the Promenade") ceased to be set aside for use as a public pleasure ground and amended the Fourth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) by deleting the reference to the Promenade. Subject to the completion of the relevant procedures, the Promenade would be handed over to the WKCD for use and management.

32. Ms Cyd HO further said that as the Amendment Order had come into operation on the date of publication in the Gazette, i.e. 6 July 2012, the relevant regulations relating to the management of public pleasure grounds enforced by the Leisure and Cultural Services Department had ceased to apply to the Promenade. By virtue of section 37(1) of the WKCD Ordinance (Cap. 601), WKCD was empowered to make

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bylaws for the regulation, operation or management of arts and cultural facilities in the West Kowloon Cultural District. However, such bylaws had yet to be made. While WKCDA had indicated that as an interim arrangement, the Promenade would be managed through a set of temporary rules, members considered such arrangement undesirable as the temporary rules had no legal basis. Ms Cyd HO added that having regard to these concerns, Mr James TO had proposed that the Subcommittee should consider whether its Chairman should, on behalf of the Subcommittee, move a motion to repeal the Amendment Order at the Council meeting of 7 November 2012. The majority of the members of the Subcommittee supported Mr TO's proposal. The Subcommittee would hold a further meeting on 29 October 2012 to consider the responses to be provided by the Administration to the concerns raised by members. The Subcommittee would provide a written report after completing its work.

**VII. Position on Bills Committees and subcommittees**

*(LC Paper No. CB(2) 72/12-13)*

33. The Chairman invited Members to note the current position on Bills Committees and subcommittees as set out in the paper. He informed Members that there were 10 subcommittees under the House Committee (i.e. eight subcommittees on subsidiary legislation/other instruments, one subcommittee on policy issues and one subcommittee on other Council business) in action.

**VIII. Election of members of The Legislative Council Commission**

*(LC Paper No. AS 54/12-13)*

34. The Chairman said that Members had been informed vide LC Paper No. CB(2) 100/12-13 issued the day before the House Committee meeting that as Mr Tony TSE had withdrawn his nomination for the election to The Legislative Council Commission ("the Commission"), the number of nominations equalled the number of members to be elected. Hence, it was not necessary to take a poll to elect members of the Commission.

35. The Chairman declared that in addition to the President and the Chairman and Deputy Chairman of the House Committee (who had already become Chairman, Deputy Chairman, and member of the Commission respectively), the following 10 Members were elected as members of the Commission -

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Ms Emily LAU  
Mr Abraham SHEK  
Mr WONG Ting-kwong  
Ms Cyd HO  
Mr CHAN Kin-por  
Mr IP Kwok-him  
Mr James TIEN  
Mr NG Leung-sing  
Mr Charles MOK  
Dr Kenneth CHAN

**IX. Proposal to set up a subcommittee under the House Committee to study issues relating to Members' remuneration and operating expenses reimbursement**  
(*LC Paper No. AS 55/12-13*)

36. The Chairman invited Members to consider the proposal for setting up a subcommittee under the House Committee to continue to study issues relating to Members' remuneration and operating expenses reimbursement, in particular the outstanding issues from the Fourth LegCo, as set out in the paper.

37. Ms Emily LAU indicated support for the proposal. She hoped that the subcommittee would comprise Members from different political parties and groupings, as in the previous terms of LegCo.

38. Members agreed to the proposal for setting up a subcommittee under the House Committee to study issues relating to Members' remuneration and operating expenses reimbursement. Ms Emily LAU agreed to join the subcommittee.

39. The Chairman said that the Secretariat would issue a circular to invite Members to join the subcommittee.

40. There being no other business, the meeting ended at 2:52 pm.