

立法會
Legislative Council

LC Paper No. CB(2) 198/12-13

Ref : CB2/H/5/12

House Committee of the Legislative Council

**Minutes of the 6th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 9 November 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

Hon LEUNG Yiu-chung

Hon Emily LAU Wai-hing, JP

Hon TAM Yiu-chung, GBS, JP

Hon Abraham SHEK Lai-him, SBS, JP

Hon Tommy CHEUNG Yu-yan, SBS, JP

Hon Frederick FUNG Kin-kee, SBS, JP

Hon Vincent FANG Kang, SBS, JP

Hon WONG Kwok-hing, MH

Dr Hon Joseph LEE Kok-long, SBS, JP

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

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 Albert CHAN Wai-yip

Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
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 MA Fung-kwok, SBS, JP
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 Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
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:

Dr Hon LAU Wong-fat, GBM, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Dr Hon LEUNG Ka-lau
Hon LEUNG Kwok-hung

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 Amy YU	Chief Council Secretary (2)6
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Evelyn LEE	Assistant Legal Adviser 10
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 5th meeting held on 2 November 2012

(LC Paper No. CB(2) 170/12-13)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that he and the Deputy Chairman had conveyed to CS that some Members, who noted the Government's intention to set up a working group under the Commission on Poverty ("CoP") to study retirement protection, were worried that the

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Administration was concerned only about the retirement problems of people in poverty, and had no intention to implement universal retirement protection. CS clarified that the Administration did not have any pre-set position on whether or not to implement universal retirement protection. CoP would discuss not only issues relating to aiding the poor, but also other issues such as education and manpower training. CS also indicated that she had taken the initiative to contact Mr Frederick FUNG, Chairman of the Subcommittee on Poverty under the House Committee ("HC"), and had raised with him that the Subcommittee could work together with CoP as its counterpart to follow up the subject of retirement protection.

3. Ms Emily LAU stressed that relevant Government officials should attend the meetings of the Subcommittee on Poverty when issues relating to retirement protection within their purview were discussed.

III. Further business for the Council meeting of 14 November 2012

(a) Tabling of papers

Report No. 3/12-13 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2) 172/12-13 issued vide LC Paper No. CB(3) 119/12-13 dated 8 November 2012)

4. The Chairman said that the Report covered one item of subsidiary legislation, the period for amendment of which would expire on 14 November 2012. No Member had indicated intention to speak on the subsidiary legislation.

(b) Members' motions

Proposed resolution to be moved by Hon NG Leung-sing under section 34(4) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to the:

- (i) **Banking (Capital) (Amendment) Rules 2012;**
- (ii) **Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2012; and**
- (iii) **Banking (Amendment) Ordinance 2012 (Commencement) Notice 2012**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 116/12-13 dated 7 November 2012.)

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5. The Chairman said that Mr NG Leung-sing, Chairman of the relevant subcommittee, would move a motion at the Council meeting to extend the scrutiny period of the above three items of subsidiary legislation to 12 December 2012.

IV. Business for the Council meeting of 21 November 2012

(a) **Questions**

(LC Paper No. CB(3) 113/12-13)

6. 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**

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

(c) **Government motion**

Proposed resolution to be moved by the Secretary for Food and Health under section 29 of the Pharmacy and Poisons Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 103/12-13 dated 2 November 2012.)

(LC Paper No. LS 7/12-13)

8. At the invitation of the Chairman, Legal Adviser ("LA") said that the proposed resolution was for seeking the Legislative Council ("LegCo")'s approval of the Poisons List (Amendment) (No. 3) Regulation 2012 and the Pharmacy and Poisons (Amendment) (No. 3) Regulation 2012 to add two substances to Division A of Part I of the Schedule to the Poisons List Regulations (Cap. 138 sub. leg. B) and Divisions A of the First and Third Schedules to the Pharmacy and Poisons Regulations (Cap. 138 sub. leg. A). LA explained that following the addition of these substances to the Pharmacy and Poisons Regulations, the sale, supply, labelling and storage of these substances would be subject to certain restrictions; and these substances could only be sold upon a prescription given by a registered medical practitioner, registered dentist or registered veterinary surgeon. LA further explained that after the addition of these substances to the Poisons List Regulations, these substances could only be sold on registered premises of an authorized seller of poisons by a registered pharmacist or in his presence and under his supervision. LA added that subject to LegCo's approval of the Amendment Regulations, the Administration would arrange gazettal so that they would take effect on 23 November 2012.

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9. Members raised no objection to the Secretary for Food and Health moving the above proposed resolution at the Council meeting.

(d) **Members' motions**

(i) **Motion to be moved by Hon LEUNG Kwok-hung**

10. The Chairman said that the subject of the motion to be moved by Mr LEUNG Kwok-hung was "Buying back the shares of The Link". The wording of the motion had been issued to Members.

(ii) **Motion to be moved by Hon LEUNG Yiu-chung**

11. The Chairman said that the subject of the motion to be moved by Mr LEUNG Yiu-chung was "Building an inclusive society for all". The wording of the motion had been issued to Members.

12. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 14 November 2012.

Report on study of subsidiary legislation/other instruments

13. The Chairman invited Members to note the list containing seven items of subsidiary legislation/other instrument tabled at the meeting, the period for amendment of which would expire on 21 November 2012. Members who wished to speak on the subsidiary legislation/other instrument should indicate their intention by 5:00 pm on Tuesday, 13 November 2012.

V. Report of Bills Committees and subcommittees

Report of the Subcommittee on Third Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences

14. 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 study the Third Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences ("Third TM") and had completed its scrutiny work. The Subcommittee would provide its written report later.

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15. Ms Cyd HO further said that the Subcommittee was mainly concerned about the cost implications of the Third TM on electricity tariff, since emission reduction initiatives by the two power companies such as increased use of renewable energy would come with a cost. Some members of the Subcommittee had indicated intention to speak on the Third TM at the Council meeting of 21 November 2012.

16. Mr Dennis KWOK said that in the last LegCo term, Members belonging to the Civic Party had pointed out on many occasions that the Administration's work in reviewing the Air Quality Objectives ("AQOs") was too slow. The existing AQOs had been implemented since 1987 and were outdated. Although the Administration had announced the adoption of new AQOs which were drawn up with reference to the recommendations of the World Health Organization ("WHO"), the new AQOs only benchmarked against the Interim Targets recommended by WHO. He urged the Administration to expedite its work in this regard.

17. Mr WU Chi-wai said that during the Subcommittee's discussion, he had suggested that the Administration should include in the Third TM energy conservation measures as part of the initiative to achieve emission reduction. He hoped that the Administration would take on board his suggestion.

18. The Chairman said that as some Subcommittee members had indicated intention to speak on the Third TM at the Council meeting of 21 November 2012, a motion would be moved at that Council meeting to take note of the relevant HC Report in relation to the Third TM, and Members would have the opportunity to express their views on it at the Council meeting.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 171/12-13)

19. The Chairman said that as at 8 November 2012, there were nine subcommittees under HC (i.e. six subcommittees on subsidiary legislation/other instrument, one subcommittee on policy issues and two subcommittees on other Council business) in action.

20. Regarding the Subcommittee on the Two Orders Made under Section 49(1A) of the Inland Revenue Ordinance and Gazetted on 19 October 2012, the Chairman informed Members that as only two Members had signified to join the Subcommittee, the Subcommittee could not be formed in accordance with rules 21(b) and 26(f) of the House Rules, which provided that a subcommittee should consist of not less than three members.

VII. Discussion of a proposal for the setting up of a subcommittee under the House Committee to promote rights of persons with disabilities as requested by Hon Emily LAU

(Letter dated 26 October 2012 from the Hong Kong Coalition for the Rights of Persons with Disabilities ("the Coalition") (LC Paper No. CB(2) 140/12-13(01) issued vide LC Paper No. CB(2) 140/12-13 dated 31 October 2012); and

the concluding observations issued by the United Nations Committee on the Rights of Persons with Disabilities in respect of the initial report of China, which includes the report of the Hong Kong Special Administrative Region, referred to in the Coalition's letter issued vide LC Paper No. CB(2)119/12-13(01) dated 30 October 2012)

21. Referring to the letter from the Hong Kong Coalition for the Rights of Persons with Disabilities ("the Coalition"), Ms Emily LAU said that the Democratic Party was one of the 27 member organizations of the Coalition. She and some Coalition members attended the meeting of the United Nations Committee on the Rights of Persons with Disabilities ("UN Committee") held in Geneva on 18 and 19 September 2012, and the UN Committee published in October 2012 its concluding observations and recommendations in respect of the initial report of China, which included the report of the Hong Kong Special Administrative Region ("HKSAR").

22. Ms Emily LAU further said that in the light of the UN Committee's concluding observations and recommendations, she raised an oral question on the subject matter at the Council meeting of 31 October 2012, and the Administration had iterated its commitment to promoting and protecting the rights of persons with disabilities ("PWDs"). Given that the relevant issues, such as education, medical services, welfare and barrier-free access, straddled across various policy bureaux, she supported the Coalition's proposal that a dedicated subcommittee be set up under HC to follow up the matter and requested that the proposal be discussed by HC. Ms LAU added that the Coalition noted that some of the issues were followed up by the Panel on Welfare Services ("WS Panel") in the last LegCo term, and had expressed concern that the Panel's discussions focused mainly on welfare issues. Furthermore, the appointment of a subcommittee under HC would demonstrate the great importance attached by LegCo to the matter and the membership of the subcommittee would be open to all Members. She appealed to Members to support the Coalition's proposal.

23. The Chairman said that upon receipt of the Coalition's letter, he had directed the Secretariat to circulate it to all HC members for consideration. Should Members agree in principle that the proposed subcommittee

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should be set up under HC, a proposal on the terms of reference ("TOR"), work plan and time frame of the subcommittee should be made for the consideration of HC at the next meeting.

24. Mr TAM Yiu-chung said that matters concerning the human rights of PWDs, particularly the HKSAR's report to the UN Committee through the Central People's Government, had all along been followed up by the Panel on Constitutional Affairs ("CA Panel"). The CA Panel had held a meeting in June 2012 to discuss the HKSAR's report before its submission to the UN Committee. Deputations had been invited to give views and Government officials from relevant policy bureaux had attended the meeting. Non-Panel Members were also invited to join the discussion. It was the Administration's plan to brief the CA Panel on its initial response to the concluding observations issued by the UN Committee at the Panel meeting in December 2012 and deputations could be invited to give views where necessary. As matters relating to the United Nations Convention on the Rights of Persons with Disabilities ("the Convention") had all along been followed up by the CA Panel, he considered it not necessary to set up another subcommittee under HC.

25. Dr KWOK Ka-ki expressed support for the proposal to set up a subcommittee under HC. He considered it incumbent upon LegCo to follow up the implementation of the Convention in HKSAR having regard to the local situation and the views of the relevant organizations. He suggested that Ms Emily LAU and other Members who were interested in joining the proposed subcommittee might draft its TOR for the consideration of HC. Dr KWOK further said that the proposed subcommittee could help reduce the heavy work of the CA Panel so that it could focus its work on the constitutional development of Hong Kong, including the implementation of universal suffrage for the election of Chief Executive ("CE") and the formation of LegCo, as well as abolition of functional constituencies.

26. The Chairman reminded Members that the maximum number of subcommittees on policy issues under HC and Panels that might be in operation at any one time was eight. So far, one such subcommittee, i.e. the Subcommittee on Poverty, had already been formed. Based on the information collated by the Secretariat, apart from the proposed subcommittee under discussion, proposals for setting up seven subcommittees on policy issues would be considered by the relevant Panels. He was concerned that the Secretariat would not be able to cope with the workload should all these subcommittees be set up, and considered it necessary for Members to discuss their order of activation. He also considered it an opportune time to review the existing arrangements for the appointment and operation of subcommittees on

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policy issues in the light of the experience in the past few years, and that the matter could be discussed by The Legislative Council Commission as appropriate.

27. Mr LEUNG Yiu-chung indicated support for setting up the proposed subcommittee under HC. He would move a motion on "Building an inclusive society for all" at the Council meeting of 21 November 2012 to urge the Administration to expeditiously establish a dedicated committee to promote and give effect to the relevant provisions of the Convention. In his view, it would not be possible for a Panel to follow up all the relevant provisions of the Convention in a comprehensive manner as demanded by the PWD organizations. He further said that while the Administration claimed to promote an inclusive society for the able-bodied and the disabled, its policies and facilities often failed to achieve such objective. He appealed to Members to support the Coalition's proposal.

28. Ms Emily LAU shared the view that the CA Panel had a lot of work to do and should focus on issues such as the constitutional development of Hong Kong. She further pointed out that the Administration's delegation to the meeting of the UN Committee was led not by the Constitutional and Mainland Affairs Bureau, but the Labour and Welfare Bureau. She considered that a dedicated subcommittee should be set up under HC to study issues relating to PWDs in a focused manner. Ms LAU suggested that Members should decide at this meeting whether they would support in principle the setting up of the proposed subcommittee under HC.

29. The Chairman advised that apart from setting up the proposed subcommittee under HC, consideration could also be given to appointing a joint subcommittee under the WS Panel and the CA Panel. It would facilitate Members' decision on whether to support the proposal if information on the TOR, time frame and work plan of the proposed subcommittee was available for Members' consideration.

30. Mr Frederick FUNG expressed support for setting up the proposed subcommittee under HC. He pointed out that PWDs had yet to enjoy equal opportunities in Hong Kong, notwithstanding the efforts of the Equal Opportunities Commission ("EOC") in this regard. He was a former member of the EOC and had served as the Convenor of its Policy and Research Committee. According to his experience, EOC's approach was to study the relevant policy issues one by one in a focused manner. EOC had recently completed its study on the provision of barrier-free access and facilities for PWDs, but the implementation of these recommendations were mainly limited to Government facilities or

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premises. He stressed that much still needed to be done to promote the rights of PWDs, and considered that LegCo was duty bound to study the relevant issues, make recommendations and monitor the Administration's work.

31. Ms Cyd HO said that as various policy bureaux were involved and the problems faced by PWDs in special education, residential care places and employment fell outside the purview of the CA Panel, she supported the proposal for setting up a subcommittee under HC to promote the rights of PWDs. She added that the proposed subcommittee could also follow up the initiative recently announced by CE on provision of barrier-free access facilities, which would involve funding proposals.

32. Mr TAM Yiu-chung agreed that Members should indicate at this HC meeting whether they support in principle the setting up of the proposed subcommittee. He stressed that the CA Panel had the duty to follow up issues relating to the Convention which was within its TOR. There was no cause for concern about the heavy workload of the CA Panel. As the Chairman of the CA Panel, he would, where necessary, arrange to hold additional meetings or extend the duration of meetings to enable Members to have thorough discussions of the matter. He added that in line with the past practice, the relevant organizations and Government officials from the bureaux concerned would be invited to attend the meetings.

33. Ms Emily LAU said that Members should support the Coalition's proposal as it was incumbent upon LegCo to do more to help the many PWDs in Hong Kong. She did not object to putting the proposal to vote at this HC meeting.

34. The Chairman put to vote the proposal for setting up a subcommittee under HC to promote the rights of PWDs. Ms Emily LAU requested a division.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Dr Joseph LEE, Mr Ronny TONG, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr Charles MOK, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG.

(25 Members)

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The following Members voted against the proposal:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Mr WONG Kwok-kin, Mr IP Kwok-him, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr TANG Ka-piu, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE.

(34 Members)

The following Members abstained:

Dr LAM Tai-fai and Mr POON Siu-ping.

(2 Members)

35. The Chairman declared that 25 Members voted for the proposal and 34 Members voted against it and two Members abstained. The proposal was negated.

VIII. Proposal from Hon Alan LEONG for moving a motion for adjournment under Rule 16(4) of the Rules of Procedure at the Council meeting of 14 November 2012 for the purpose of debating the following issue: the arrangement for Mr Franklin LAM Fan-keung, Member of the Executive Council, to take a leave of absence

(Letter dated 6 November 2012 from Hon Alan LEONG (LC Paper No. CB(2) 176/12-13(01)))

36. Mr Alan LEONG said that his proposal was to seek HC's support for him to move a motion for adjournment under Rule 16(4) of the Rules of Procedure ("RoP") at the Council meeting of 14 November 2012 concerning the arrangement for Mr Franklin LAM Fan-keung, Member of the Executive Council ("ExCo"), to take a leave of absence. According to RoP 16(4), a Member might move a motion for the adjournment of the Council for the purpose of raising any issue concerning public interest. In the present case, in view that Mr LAM's leave of absence was unprecedented, the question of whether he could continue to participate in public activities or attend other meetings in his capacity as a non-official ExCo Member during his leave of absence was a matter of public concern. Furthermore, given that Mr LAM's five-year term of office as an ExCo

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Member had just started for a few months and he would be on leave of absence until further notice, concern had also been raised as to how long the leave would last and whether his seat on ExCo would be left vacant for the next five years. Mr LEONG further said that as the different versions of the explanations given by Mr LAM for the coincidence in time between his selling of properties and the Government's introduction of measures on stamp duties contradicted each other, his integrity had been called into question. Members belonging to the Civic Party queried whether Mr LAM should be allowed to continue to sit on ExCo which was entrusted with making important policy decisions for Hong Kong. Given the significant public interests at stake, Mr LEONG appealed to Members to support his proposal.

37. Mr WONG Yuk-man expressed support for Mr Alan LEONG's proposal. Citing the case of Mr Antony LEUNG, the former Financial Secretary, who had resigned over his purchase of a car shortly before proposing an increase in motor vehicles first registration tax in the Budget, Mr WONG criticized Mr Franklin LAM for selling his properties shortly before the Government introduced measures to cool down the overheated property market. In his view, Mr LAM should resign from ExCo, having regard to the gravity of the matter and the alleged conflict of interests involved and the proposed adjournment debate would provide an opportunity for Members to express their views on the matter.

38. Mr Albert CHAN considered Mr Alan LEONG's proposal reasonable and appropriate, given the Legislature's constitutional duty to monitor the Executive. It was his understanding that arrangement for an ExCo Member to take leave of absence was rare, and so far the Administration had not provided a clear explanation on its practice in this regard. Referring to the case of Mr MAK Chai-kwong, the former Secretary for Development, who resigned when he became the subject of an investigation by the Independent Commission Against Corruption ("ICAC"), Mr CHAN saw no reason why Mr Franklin LAM who was also under investigation by ICAC should not do the same. He criticized the Administration for its lack of principle and consistency in handling such cases. In his view, there was urgency for LegCo to discuss the matter.

39. Mr WU Chi-wai said that the Democratic Party supported Mr Alan LEONG's proposal. He had submitted a request to the President to seek his permission for asking an urgent question on the matter at the Council meeting of 7 November 2012, but his request was not approved by the President. It was clear that the explanations given by Mr Franklin LAM on the matter were inconsistent, by which his integrity was called into question and the governance of the HKSAR Government was

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undermined. Given the seriousness of the matter, he considered it necessary for Members to debate on it in Council. He added that the proposed adjournment debate would also provide an opportunity for the Administration to provide a clear explanation to the public and bring an early resolution to the matter.

40. Mrs Regina IP said that according to RoP 16(4), a Member might move a motion for adjournment of the Council for the purpose of raising any issue concerning public interest. It was therefore her understanding that all Members had the right to raise a proposal for moving an adjournment motion, and the issue to be discussed by HC was whether or not it should support Mr Alan LEONG's request for dispensing with the seven clear days' notice for moving the proposed motion. Mrs IP further said that the Administration had made it clear that during his leave of absence, Mr Franklin LAM would not attend meetings and briefings of ExCo and the Administration would cease sending him relevant documents. In her view, there was no urgency to warrant the waiving of the requisite notice period.

41. The Chairman said that as two Members' motions without legislative effect had been scheduled for the Council meeting of 14 November 2012, the holding of the proposed adjournment debate in addition to the two Members' motions required HC's support.

42. At the invitation of the Chairman, the Clerk said that according to rule 13(a) of the House Rules, not more than two debates initiated by Members without legislative effect should be held at each regular Council meeting, unless approval had been given by the President on the recommendation of HC. Mr Alan LEONG also sought HC's support for requesting the President to dispense with the seven clear days' notice for moving the proposed motion.

43. In response to Mrs Regina IP, the Chairman said that while HC might make recommendations, it was for the President to decide on Mr Alan LEONG's requests.

44. Mr WONG Kwok-kin said that Members belonging to the Hong Kong Federation of Trade Unions did not see any urgency in holding the proposed adjournment debate at the Council meeting of 14 November 2012. He pointed out that so far there was no evidence to substantiate the allegation against Mr Franklin LAM that he had acted with advance knowledge of the Government's measures on stamp duties. As to his alleged breach of the law in the property transactions, ICAC had launched an investigation into matter. As ICAC's investigation was underway, the holding of an adjournment debate might prejudice the investigation

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and any legal proceedings resulting therefrom. Having regard to the above considerations, Members belonging to the Hong Kong Federation of Trade Unions did not support Mr Alan LEONG's proposal.

45. Mr Paul TSE said that while the allegations against Mr Franklin LAM had yet to be substantiated, many members of the public had cast doubt on his capability to serve as a Member of ExCo. He therefore agreed that an adjournment debate or a motion debate on the matter should be held. In his view, the issue to be decided by HC was whether there was urgency in holding the proposed adjournment debate which justified the waiving of the requisite notice. He cautioned that HC should consider carefully Mr Alan LEONG's request for dispensing with the requisite notice, as its decision would form a precedent. He sought information from LA on the criteria for considering such requests and the relevant precedents.

46. At the invitation of the Chairman, LA said that the allocation of debate slots was a procedural matter and it was for the President to decide whether to give permission for the holding of more than two debates initiated by Members without legislative effect at a Council meeting after taking into account HC's recommendation. As for Mr Alan LEONG's request for waiving the requisite notice, although there were no express criteria in RoP on how such requests should be considered, the President had, in his rulings, set out factors that he had taken into account in relation to a particular decision.

47. Mr Alan LEONG said that he had raised his proposal to the President direct, but was advised by the Secretariat that he should first seek HC's support for holding an adjournment debate in addition to the two motions without legislative effect to be moved by Members. He stressed that urgency of the issue was not a requirement stipulated in RoP 16(4). He added that according to RoP 16(5), the decision to dispense with the requisite notice for moving an adjournment motion under RoP 16(4) rested with the President, and it was his understanding that he was not required to seek HC's support in this regard.

48. Mr James TIEN said that given the wide public concern on the matter, Members belonging to the Liberal Party supported Mr Alan LEONG's proposal. They had no strong view on whether the proposed adjournment debate should be held at the Council meeting of 14 November 2012 or at a later Council meeting.

49. Dr LAM Tai-fai said that whether or not Mr Alan LEONG's proposal was reasonable and appropriate was a matter of opinion. In his view, the most important considerations were whether the matter was

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worth discussing and if so, whether there was urgency in discussing it. He considered that the matter was not worthy of any discussion by LegCo.

50. Ms Cyd HO considered that the matter warranted discussion by LegCo, given that the integrity of an ExCo Member was at stake and it was incumbent upon LegCo to clear the doubts. She therefore supported Mr Alan LEONG's proposal. She added that the proposed adjournment debate would provide an early opportunity for Members of different political parties and groupings to express their views and stance on the matter.

51. Mr IP Kwok-him said that Mr Alan LEONG's proposal concerned the arrangement for Mr Franklin LAM to take a leave of absence. He considered it inappropriate for some Members to overplay the matter to be an issue of Mr LAM's integrity. Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong did not support Mr Alan LEONG's request for waiving the requisite notice. They considered that Members should follow the established practices and procedures for moving motions for debate at Council meetings.

52. Dr Kenneth CHAN said that Members should consider Mr Alan LEONG's proposal from the perspective of public interest. There was wide public concern about the matter which involved the constitutional system, the practices of ExCo and the grounds for CE's approval of Mr Franklin LAM's request for a leave of absence. As public interests were at stake, he supported Mr Alan LEONG's proposal for holding an adjournment debate to provide an opportunity for Members to express their views.

53. Mr Alan LEONG said that it was his understanding that HC's support had to be sought for the moving of an adjournment motion, irrespective of the need to seek the President's approval for waiving the requisite notice. In his view, Members who were agreeable to the holding of the proposed adjournment debate at the Council meeting of 21 November 2012 but not that of 14 November 2012 should support his proposal, and their concerns about the waiving of the requisite notice would be conveyed to the President for his consideration.

54. The Chairman put to vote Mr Alan LEONG's proposal for moving a motion for adjournment under RoP 16(4) at the Council meeting of 14 November 2012 for the purpose of debating the following issue: the arrangement for Mr Franklin LAM, Member of ExCo, to take a leave of absence. Mr SIN Chung-kai and Ms Emily LAU requested a division.

Action

55. Mr Paul TSE sought clarification from Mr Alan LEONG whether he would amend his proposal to moving the adjournment motion at the Council meeting of 21 November 2012 instead of the Council meeting of 14 November 2012.

56. Mr Alan LEONG said that he was agreeable to holding the proposed adjournment debate at the Council meeting of 21 November 2012. It was his understanding that in this case the HC's support was required for his moving of the proposed adjournment motion in addition to two other Members' motions without legislative effect, but not his request for waiving the requisite notice. He sought confirmation on whether his understanding was correct.

57. At the invitation of the Chairman, Secretary General ("SG") replied in the affirmative. He further said that the Chairman might consider also putting to vote the proposal of holding the adjournment debate at the Council meeting of 21 November 2012, in addition to Mr Alan LEONG's original proposal of holding it at the Council meeting of 14 November 2012.

58. The Chairman suggested putting to vote Mr Alan LEONG's proposal of holding the adjournment debate at the Council meeting of 14 November 2012 first. Should the proposal be negatived, he would then put to vote the proposal of holding the adjournment debate at the Council meeting of 21 November 2012.

59. Dr LAM Tai-fai objected to the Chairman's proposal, as Members might then further request putting to vote numerous other proposals involving different Council meeting dates. In his view, Members should vote only on the original proposal of holding the adjournment debate at the Council meeting of 14 November 2012.

60. At the invitation of the Chairman, SG said that in considering whether an adjournment debate should be held in addition to two other Members' motions without legislative effect, Members had to take into account the proposed Council meeting date for moving the adjournment motion. As the Chairman had clearly stated that only two proposals involving two Council meeting dates would be put to vote, Members might consider expressing their stance on the two proposals.

61. Mr James TIEN asked whether Mr Alan LEONG would consider amending his proposal to moving the adjournment motion at the Council meeting of 21 November 2012.

Action

62. Mr Alan LEONG agreed to amend his proposal as suggested by Mr James TIEN.

63. Dr LAM Tai-fai opined that Mr Alan LEONG's amendment to his proposal would render the earlier discussions on the urgency of moving the proposed adjournment motion meaningless.

64. Mr Alan LEONG said that as he had mentioned earlier at the meeting, the urgency of the issue was not a requirement for moving an adjournment motion under RoP 16(4). He reiterated that he was advised by the Secretariat to seek the HC's support only for the moving of an adjournment motion in addition to two other Members' motions without legislative effect at the Council meeting, and not for his request for waiving the requisite notice stipulated in RoP 16(5).

65. Mr Paul TSE said that according to RoP 16(5), a Member who wished to move a motion under RoP 16(4) should comply with the seven clear day notice requirement.

66. The Chairman put to vote the proposal as amended by Mr Alan LEONG for moving a motion for adjournment under RoP 16(4) at the Council meeting of 21 November 2012 for the purpose of debating the following issue: the arrangement for Mr Franklin LAM, Member of ExCo, to take a leave of absence.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Ronny TONG, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Paul TSE, Mr Alan LEONG, Mr Albert CHAN, Mr James TIEN, Mr Frankie YICK, Mr WU Chi-wai, Mr Gary FAN, Mr Charles MOK, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr SIN Chung-kai, Mr IP Kin-yuen and Mr CHUNG Kwok-pan.
(29 Members)

The following Members voted against the proposal:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr CHAN Kin-por, Mr WONG Kwok-kin, Mr IP Kwok-him, Mrs Regina IP, Mr Michael TIEN, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kiwok, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr

Action

KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr POON Siu-ping, Mr TANG Ka-piu, Dr CHIANG Lai-wan, Ir Dr LO Wai-kyok and Mr Tony TSE.
(29 Members)

The following Member abstained:

Dr Helena WONG.
(1 Member)

67. The Chairman declared that 29 Members voted for the proposal and 29 Members voted against it and one Member abstained. The Chairman said that under RoP, where there was a tie vote, he, as the Chairman, should give a casting vote. In accordance with RoP 79A(1), in exercising his casting vote, he should not exercise the vote in such a way as to produce a majority vote in favour of the question put. As such, he would exercise his casting vote to negative the motion. The Chairman declared that the proposal was negated.

(Post-meeting note : After the HC meeting, Dr Helena WONG informed the Secretariat and requested to put on the record that it had been her voting intention to cast a "Yes" vote, and not an "Abstain" vote, on Mr Alan LEONG's proposal.)

IX. Any other business

68. There being no other business, the meeting ended at 3:35 pm.