

立法會
Legislative Council

LC Paper No. CB(2) 451/12-13

Ref : CB2/H/5/12

House Committee of the Legislative Council

**Minutes of the 12th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 4 January 2013**

Members present:

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

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

Hon Albert HO Chun-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 Vincent FANG Kang, SBS, JP

Hon WONG Kwok-hing, MH

Dr Hon Joseph LEE Kok-long, SBS, JP

Hon WONG Ting-kwong, SBS, JP

Hon Cyd HO Sau-lan

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

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 Claudia MO

Hon James TIEN Pei-chun, GBS, JP

Hon NG Leung-sing, SBS, JP

Hon Steven HO Chun-yin
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon CHAN Han-pan
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
Dr Hon Fernando CHEUNG Chiu-hung
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 Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members absent:

Hon LEE Cheuk-yan
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Starry LEE Wai-king, JP
Dr Hon LEUNG Ka-lau
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man
Hon Michael TIEN Puk-sun, BBS, JP
Hon Frankie YICK Chi-ming
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon Christopher CHEUNG Wah-fung, JP
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon CHUNG Kwok-pan

Clerk in attendance :

Miss Flora TAI Clerk to the House Committee

Staff in attendance :

Mrs Justina LAM	Acting Secretary General
Mr Jimmy MA, JP	Legal Adviser
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 Kelvin LI	Acting Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Miss Evelyn LEE	Assistant Legal Adviser 10
Mr Stephen LAM	Assistant Legal Adviser 11
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 11th meeting held on 14 December 2012
(*LC Paper No. CB(2) 416/12-13*)

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 had sought clarification with Acting CS on whether the Chief Executive ("CE")'s Question and Answer Session ("Q&A Session") held on 10 December 2012 would be counted as one of the four Q&A Sessions scheduled for the current session. Acting CS

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had advised that the said Q&A Session was an additional one and would not be counted as one of the four Q&A Sessions scheduled for the current session.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 14 December 2012 and tabled in Council on 19 December 2012

(LC Paper No. LS 14/12-13)

3. At the invitation of the Chairman, Legal Adviser ("LA") said that a total of four items of subsidiary legislation were gazetted on 14 December 2012 and tabled in the Council on 19 December 2012.

4. Regarding the two items of subsidiary legislation relating to statutory minimum wage, i.e. the Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2012 (L.N. 186) and the Employment Ordinance (Amendment of Ninth Schedule) Notice 2012 (L.N. 187), LA explained that L.N. 186 was to amend Schedule 3 to the Minimum Wage Ordinance (Cap. 608) ("MWO") by specifying that the prescribed minimum hourly wage rate ("the PMHW rate") be increased to \$30 per hour with effect from 1 May 2013. LA further explained that according to MWO, the Legislative Council ("LegCo") only had the power to revoke, and not amend, L.N. 186.

5. As regards L.N. 187, LA said that it was to amend the Ninth Schedule to the Employment Ordinance (Cap. 57) by increasing the monetary cap on keeping records of hours worked specified in the Schedule ("the monetary cap") from \$11,500 per month to \$12,300 per month. The amendment in L.N. 187 was consequential to the amendments in L.N. 186 in that by increasing the PMHW rate from \$28 to \$30 per hour, the monetary cap had to be proportionately increased from \$11,500 to \$12,300. L.N. 187 would come into operation on the same day on which L.N. 186 came into operation, i.e. 1 May 2013.

6. Mr WONG Kwok-hing considered it necessary to form a subcommittee to study in detail the subsidiary legislation relating to minimum wage, notwithstanding that LegCo could not amend the proposed PMHW rate. Ms Cyd HO also considered that LegCo should examine the rationale for setting the revised PMHW rate at \$30 per hour and expressed support for Mr WONG's proposal. Members agreed to form a subcommittee to study L.N. 186 and L.N. 187. The following Members agreed to join the subcommittee: Mr Albert HO, Mr LEUNG Yiu-chung, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr WONG

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Kwok-hing, Mr Ronny TONG, Ms Cyd HO, Mr CHEUNG Kwok-che, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung and Dr CHIANG Lai-wan.

7. Members did not raise any queries on the other two items of subsidiary legislation (L.N. 188 and L.N. 189).

8. The Chairman reminded Members that the deadline for amending these four items of subsidiary legislation was 16 January 2013, or 6 February 2013 if extended by a resolution of the Council. To allow sufficient time for the scrutiny of L.N. 186 and L.N. 187, the Chairman proposed to move a motion, in his capacity as Chairman of the House Committee ("HC"), at the Council meeting of 9 January 2013 to extend the scrutiny period of the two Notices to 6 February 2013. Members agreed.

IV. Legal Service Division report on subsidiary legislation gazetted on 21 December 2012

(LC Paper No. LS 15/12-13)

9. At the invitation of the Chairman, LA said that a total of four items of subsidiary legislation, including three Commencement Notices, were gazetted on 21 December 2012.

10. Regarding the Telecommunications (Telecommunications Apparatus) (Exemption from Licensing) (Amendment) Order 2012 (L.N. 190), LA said that it was to withdraw the licensing exemptions for selling, importing or exporting certain telecommunications apparatus operating within the 1895-1906.1 MHz band with effect upon the commencement of the Amendment Order and provide for a three-year transitional period, upon the commencement of the Amendment Order, for the withdrawal of the licensing exemptions in respect of the establishment or maintenance, and possession or use of such apparatus. LA added that the Amendment Order would come into operation on a day to be appointed by the Director-General of Communications by notice published in the Gazette.

11. Mr James TO noted that the 1895-1906.1 MHz band had been used predominately for home cordless telephone through the Personal Handy Phone System. He was concerned whether the proposed three-year transitional period was sufficient, and considered it necessary to form a subcommittee to study the Amendment Order in detail. Members agreed. The following Members agreed to join the subcommittee: Mr James TO, Mr Ronny TONG and Mr WU Chi-wai.

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12. Members did not raise any queries on the three Commencement Notices (L. N. 191 to L.N. 193).

13. The Chairman reminded Members that the deadline for amending these four items of subsidiary legislation was 6 February 2013, or 27 February 2013 if extended by a resolution of the Council.

V. Business for the Council meeting of 9 January 2013

(a) Questions

(LC Paper No. CB(3) 266/12-13)

14. 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

(i) Stamp Duty (Amendment) Bill 2012

(ii) Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Bill 2012

15. The Chairman said that the Administration had given notice to present the above two Bills to the Council on 9 January 2013. HC would consider these Bills at its meeting on 11 January 2013.

(c) Government motion

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

(d) Members' motions

(i) Motion under Article 73(9) of the Basic Law which is jointly initiated by 27 Members and will be moved by Hon LEUNG Kwok-hung

(Wording of the motion issued vide LC Paper No. CB(3) 260/12-13 dated 27 December 2012.)

17. The Chairman informed Members that in accordance with Rule 36(5) of the Rules of Procedure, each Member could only speak once in the above motion debate and the speaking time limit for each Member was 15 minutes, but the mover of the motion could speak twice and could speak for up to 15 minutes each time.

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(ii) **Motion on "Comprehensively reviewing the Mandatory Provident Fund Scheme"**

(Wording of the motion issued vide LC Paper No. CB(3) 256/12-13 dated 21 December 2012.)

(iii) **Motion on "Safeguarding the rule of law and judicial independence"**

(Wording of the motion issued vide LC Paper No. CB(3) 257/12-13 dated 21 December 2012.)

18. The Chairman said that the above two motions would be moved by Mr TANG Ka-piu and Mr Dennis KWOK respectively, and the wording of the motions had been issued to Members.

VI. Business for the Council meeting of 16 January 2013

The Chief Executive's Policy Address

19. The Chairman said that CE would deliver his Policy Address at the Council meeting of 16 January 2013. The Chairman further said that the motion debate on the Policy Address would be held at the Council meeting of 30, 31 January and 1 February 2013 and the business for that Council meeting would be dealt with at the HC meeting on 18 January 2013.

Report of HC on consideration of subsidiary legislation

20. The Chairman invited Members to note the list containing five items of subsidiary legislation tabled at the meeting, the period for amendment of which would expire on 16 January 2013. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 8 January 2013.

VII. The Chief Executive's Question and Answer Session on 17 January 2013

21. The Chairman said that the CE's Q&A Session would be held from 2:30 pm to 4:00 pm during which CE would answer questions put by Members on his 2013 Policy Address.

VIII. Report of Bills Committees and subcommittees

Report of the Subcommittee on Competition Ordinance (Commencement) Notice 2012

(LC Paper No. CB(1) 354/12-13)

22. The Chairman, in his capacity as Chairman of the Subcommittee, said that the Subcommittee had completed its study of the Notice. The Chairman explained that the Notice sought to commence the provisions of the Competition Ordinance (14 of 2012) ("the Ordinance") which related mainly to the setting up of the Competition Commission ("the Commission") and the Competition Tribunal ("the Tribunal"). This would enable the Commission to prepare regulatory guidelines and carry out consultation as required under the Ordinance as well as conduct publicity programmes, and the Judiciary to prepare procedural rules relating to Tribunal proceedings to pave way for the full operation of the Tribunal.

23. The Chairman further said that the Subcommittee noted that the Ordinance would be implemented in phases and the commencement of the Notice was the first step in implementing the Ordinance. The rest of the Ordinance relating to the competition rules and the penalty provisions would be brought into operation only after the preparation work on the relevant guidelines and procedures had been completed, which was expected to take at least a year. The Chairman added that the Subcommittee supported the Notice and would not propose any amendment.

24. The Chairman reminded Members that as the deadline for amending the Notice was 16 January 2013, the deadline for giving notice of amendments, if any, was Wednesday, 9 January 2013.

IX. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 417/12-13)

25. The Chairman said that as at 3 January 2013, there were four subcommittees under HC (i.e. one subcommittee on subsidiary legislation, one subcommittee on policy issues and two subcommittees on other Council business) and six subcommittees on policy issues under Panels in action.

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X. Any other business

26. There being no other business, the meeting ended at 2:44 pm.

Council Business Division 2
Legislative Council Secretariat
9 January 2013