

立法會
Legislative Council

LC Paper No. CB(2) 764/12-13

Ref : CB2/H/5/12

House Committee of the Legislative Council

**Minutes of the 18th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 1 March 2013**

Members present:

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

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

Hon LEE Cheuk-yan

Hon James TO Kun-sun

Hon CHAN Kam-lam, SBS, JP

Hon LEUNG Yiu-chung

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

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

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

Dr Hon Priscilla LEUNG Mei-fun, JP

Hon CHEUNG Kwok-che

Hon WONG Kwok-kin, BBS

Hon IP Kwok-him, 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 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
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:

Hon Albert HO Chun-yan
Hon WONG Kwok-hing, MH
Dr Hon LEUNG Ka-lau
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon SIN Chung-kai, SBS, JP

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 Joanne MAK	Chief Council Secretary (2)3
Ms Amy YU	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Miss Kitty CHENG	Assistant Legal Adviser 5
Ms Wendy KAN	Assistant Legal Adviser 6
Mr YICK Wing-kin	Assistant Legal Adviser 8
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 17th meeting held on 22 February 2013**
(LC Paper No. CB(2) 701/12-13)

The minutes were confirmed.

II. Matters arising

Report by the Chairman on his meeting with the Chief Secretary for Administration

2. The Chairman said that there was nothing special to report.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 22 February 2013 and tabled in Council on 27 February 2013

(LC Paper No. LS 27/12-13)

3. At the invitation of the Chairman, Legal Adviser ("LA") said that a total of three items of subsidiary legislation were gazetted on 22 February 2013 and tabled in the Council on 27 February 2013.
4. Regarding the Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2013 (L.N. 17), LA said that it sought to amend the Schedule to the principal Notice to designate a new no smoking area ("NSA") in a new public transport facility, amend by substitution the designation of the existing designated NSAs in 10 public transport facilities and repeal the designation of NSAs in three public transport facilities. The Amendment Notice would come into operation on 1 June 2013.
5. In response to Mr James TO's enquiry on the extent of the proposed amendments, LA explained that the actual boundaries of the new and amended NSAs were delineated on respective plans deposited in the Land Registry and published in the Gazette. Changes in physical features and settings on the ground had necessitated amendments to the extent of the existing designated NSAs in 10 public transport facilities.
6. Mr James TO said that he needed more time to study the proposed amendments with reference to the relevant plans published in the Gazette. At his suggestion, Members agreed to defer the decision on whether to form a subcommittee on the Amendment Notice to the next House Committee ("HC") meeting.
7. Regarding the Import and Export (General) (Amendment) Regulation 2013 (L.N. 25) made by the Chief Executive in Council under section 31 of the Import and Export Ordinance (Cap. 60), LA said that it was to prohibit the export of powdered formula to all places outside Hong Kong, except under an export licence or an exemption. According to the Legislative Council Brief, the purpose of L.N. 25 was to combat parallel trading activities in respect of powdered formula so as to stabilize the supply of powdered formula in Hong Kong. L.N. 25 came into operation on the day of this HC meeting, i.e. 1 March 2013. LA added that the Legal Service Division ("LSD") would make a further report if necessary after receiving clarification from the Administration regarding the drafting of L.N. 25 as raised by LSD.

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8. In response to Mr Ronny TONG, LA clarified that LSD was seeking clarification from the Administration regarding the drafting of L.N. 25, such as the drafting of the definition of "powdered formula".

9. Ms Cyd HO considered it necessary to form a subcommittee to study L.N. 25 in detail. Members agreed. The following Members agreed to join the subcommittee: Mr James TO, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Ting-kwong, Ms Cyd HO, Mr CHAN Hak-kan, Mr Alan LEONG, Mr Steven HO, Mr Gary FAN, Mr LEUNG Che-cheung and Mr CHUNG Kwok-pan.

10. Members did not raise any questions on the remaining item of subsidiary legislation, i.e. the Electronic Transactions (Fees) (Amendment) Regulation 2013 (L.N. 16).

IV. Advance information on business for the Council meeting of 20 March 2013

(a) Bills - First Reading and moving of Second Reading

(i) Pilotage (Amendment) Bill 2013

(ii) Air Pollution Control (Amendment) Bill 2013

11. The Chairman said that the Administration had given notices to present the above two Bills to the Council on 20 March 2013. HC would consider these Bills at its meeting on 22 March 2013.

(b) Government motion

Proposed resolution to be moved by the Secretary for Financial Services and the Treasury under the Public Finance Ordinance (Cap. 2)

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 396/12-13 dated 28 February 2013.)

(LC Paper No. LS 28/12-13)

12. At the invitation of the Chairman, LA explained that the purpose of the proposed resolution was to seek funds on account to enable the Government to carry on its services during the period between the start of the financial year on 1 April 2013 and the time when the Appropriation Ordinance 2013 came into operation. LA further explained that paragraph 3 of the proposed resolution stipulated that expenditure in respect of any head must not exceed the aggregate of the amounts authorized by paragraph 4 to be expended in respect of its subheads.

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13. Members did not raise any objection to the Administration moving the proposed resolution at the Council meeting of 20 March 2013.

V. Report of Bills Committees and subcommittees

(a) Report of the Subcommittee on Three Proposed Resolutions under Section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230)

(LC Paper No. CB(1) 623/12-13)

14. Mr CHAN Kam-lam, Chairman of the Subcommittee, said that the three proposed resolutions made under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230) sought to exclude the application of the Profit Control Scheme to the new 10-year franchises granted by the Chief Executive in Council on 24 April 2012 to the three bus companies concerned.

15. Mr CHAN Kam-lam further said that the Subcommittee had held one meeting and had completed its scrutiny work. The Subcommittee supported generally the three proposed resolutions and would not propose any amendment to them. He referred Members to the Subcommittee's report for details of its deliberations.

16. The Chairman informed Members that the Administration would give fresh notices to move the three proposed resolutions at a future Council meeting.

(b) Report of the Subcommittee on Personal Data (Privacy) (Amendment) Ordinance 2012 (Commencement) Notice

17. Mr CHAN Kin-por, Chairman of the Subcommittee, said that the Subcommittee had completed its scrutiny of the Commencement Notice, which was made under the Personal Data (Privacy) (Amendment) Ordinance 2012 to appoint 1 April 2013 as the day on which the provisions of the Amendment Ordinance relating to direct marketing and the legal assistance scheme for aggrieved data subjects would come into operation.

18. Mr CHAN Kin-por further said that the Subcommittee had held one meeting with the Administration and the Office of the Privacy Commissioner for Personal Data ("PCPD"). Members of the Subcommittee were mainly concerned about the preparatory work of PCPD and the readiness of organizations involved in direct marketing activities for the implementation of the new regulatory regime on 1 April

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2013, such as their preparation of the necessary forms and written confirmation for obtaining/confirming data subjects' consent. In response to members' concerns, PCPD had briefed the Subcommittee on the promotional and public educational activities conducted, as well as the preparatory work done and manpower arrangements made for the implementation of the legal assistance scheme.

19. Regarding the form for data subjects to indicate consent/no objection and the written confirmation of oral consent, Mr CHAN Kin-por informed the meeting that PCPD had provided examples of standard formats to data users to facilitate their presentation of the relevant information in a manner that was easily understandable or readable so as to comply with the requirements under the new regulatory regime. Mr CHAN added that the Subcommittee had no objection to the implementation of the relevant provisions on 1 April 2013 and would not propose any amendment to the Commencement Notice. The Subcommittee would submit its written report later.

20. The Chairman reminded Members that as the deadline for amending the Commencement Notice was 20 March 2013, the deadline for giving notice of amendments, if any, would be Wednesday, 13 March 2013.

VI. Position on Bills Committees and subcommittees
(*LC Paper No. CB(2) 702/12-13*)

21. The Chairman said that as at 28 February 2013, there were five Bills Committees, eight subcommittees under HC (i.e. five subcommittees on subsidiary legislation, one subcommittee on policy issues and two subcommittees on other Council business) and seven subcommittees on policy issues under Panels in action. Three subcommittees on policy issues under Panels were on the waiting list.

VII. Proposed overseas duty visit to the Republic of Korea by the Panel on Environmental Affairs
(*LC Paper No. CB(1) 630/12-13*)

22. Ms Cyd HO, Chairman of the Panel on Environmental Affairs ("EA Panel"), said that the Panel sought HC's permission to conduct an overseas duty visit to Seoul, Republic of Korea, from 1 to 5 April 2013 to study its experience in waste management. The Panel noted that Seoul had been very successful in achieving waste reduction and waste recycling. Its path to success would provide good reference for Hong

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Kong. The Panel considered it worthwhile to undertake a visit to Seoul to obtain first-hand information on its experience in waste management, which would facilitate the Panel's deliberations on the controversial issues concerned, such as the proposed introduction of a waste charging regime and construction of waste treatment facilities.

23. Ms Cyd HO further said that as the EA Panel had a large membership size, some Panel members were of the view that only Panel members should join the visit, and that the delegation should be kept to a manageable size to facilitate in-depth exchange with the receiving organizations. While the Panel had agreed that the participants of the visit should be limited to Panel members, she personally was open minded in this regard.

24. Mr Frederick FUNG said that he was not a member of the EA Panel but was interested in the subject of waste management and wished to join the visit. As overseas duty visits conducted in the past were usually open to all Members, he hoped that the proposed duty visit would be the same.

25. Mr IP Kwok-him said that it was his understanding that overseas duty visits conducted by committees were usually open to all Members to enable interested non-committee Members to join. He had reservation about EA Panel's proposal to limit the participants of the visit to Panel members.

26. Mr Albert CHAN said that he was a member of the EA Panel, but was unable to join the proposed duty visit due to prior commitments. People Power wished to send a representative to join the duty visit but the other two Members belonging to People Power were not members of the EA Panel. Mr CHAN expressed support for opening the duty visit to all Members, which was in line with past practice.

27. Mr Tommy CHEUNG said that he was not a member of the EA Panel. While he would be interested in joining the proposed duty visit, he had other prior commitments during that period and might not be able to join. He also pointed out that it was the normal practice in the past that overseas duty visits were open to all Members and there were cases where such visits had a large delegation. Citing the duty visit undertaken by the Subcommittee on Harbourfront Planning to New York, Boston and Vancouver in the Fourth Legislative Council as an example, Mr CHEUNG did not consider that there were great difficulties for a large delegation to go on a duty visit. He did not consider it necessary for the Panel to limit the participants of the visit to its members.

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28. Ms Emily LAU said that she was not a member of the EA Panel and agreed that the proposed duty visit should be open to all Members. Ms LAU further remarked that Members might consider the need to set a limit on the number of Members participating in an overseas duty visit. In her view, the composition of a delegation should be broadly representative of the membership of the Council.

29. At the invitation of the Chairman, Assistant Secretary General 1 ("ASG1") said that the Handbook for Chairmen of Panels ("the Handbook") had provided broad guidelines for determining the size and membership of a delegation, including that the delegation should be of a manageable size in order not to create difficulties in logistical arrangements. However, the Handbook had not specified the optimal delegation size. While the Secretariat would use its best efforts to deploy adequate manpower resources to provide the necessary support to the duty visit having regard to the number of participants, Members might wish to consider whether the size of the delegation would affect effective and in-depth exchange with the receiving organizations.

30. Mr WU Chi-wai informed the meeting that during the Panel's discussion on the proposed duty visit, some members had expressed concern whether the effectiveness of exchange with the receiving organizations would be affected if the delegation size was too large. Given such concern, the Panel had proposed that the participants of the visit should be limited to Panel members. If non-Panel Members were also interested in joining the duty visit, he would not object to opening it to all Members.

31. Mr CHAN Kin-por said that as the EA Panel itself had 21 members, some Panel members were concerned that inviting non-Panel Members to join the visit might result in too large a delegation, which might create difficulties in logistical arrangements and affect in-depth exchange with the receiving organizations. Mr CHAN suggested that consideration be given to setting a limit on the delegation size should HC decide that the visit should be open to all Members. In the event that the number of Members who had indicated interest in joining the visit exceeded the limit, lots would be drawn to determine who could participate in the visit.

32. Mr Christopher CHUNG, Deputy Chairman of the EA Panel, said that he agreed that the proposed duty visit should be open to all Members.

33. The Chairman said that while various views were expressed by Members on the size and membership of the delegation of the proposed duty visit of the EA Panel, he gathered from the discussion that Members generally agreed that the visit should be open to all Members. Under

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such a premise, he suggested that the decision on the size and membership of the delegation be left to the EA Panel. The Chairman further said that given the wide public concern about environmental protection, Members belonging to different political parties and groupings would likely be interested in joining the visit. He trusted that the Secretariat would use its best endeavours to render the necessary support to ensure the smooth conduct of the visit.

34. Ms Cyd HO said that it was her understanding that various legislative and funding proposals concerning waste management would be introduced into the Council. She hoped that each political party and grouping would be represented in the delegation of the proposed duty visit. As the visit was scheduled for early April, she appealed to Members who were interested in joining the visit to indicate their interest as early as possible.

35. Ms Emily LAU considered that Members should discuss whether it was necessary to set a limit on the delegation size and the criteria for determining its membership in the event that interested Members were too numerous.

36. At the invitation of the Chairman, Secretary General said that according to rule 29A(b) of the House Rules, the committee concerned might invite other Members who were not members of the committee to take part in a visit. In his view, as the EA Panel had already drawn up the programme of the visit, it would be in a better position to determine the size and membership of the delegation. He assured Members that the Secretariat would render the necessary support for the smooth conduct of the visit.

37. Mr Ronny TONG said that as non-Panel Members could also join the proposed duty visit, he considered it inappropriate for the EA Panel to decide on the size and membership of the delegation in the absence of non-Panel members. In his view, a specified deadline should be set for Members to indicate interest in joining the visit and the EA Panel should decide on the size and membership of the delegation in an open manner.

38. Mr WONG Yuk-man shared the view that the matter should be referred back to the EA Panel for its consideration and decision.

39. At the invitation of the Chairman, ASG1 said that following the guidelines in the Handbook, Members might consider leaving the decision to the EA Panel. If necessary, the Panel could decide on the size and membership of the delegation based on Members' returns to the circular inviting them to indicate interest in participating in the visit.

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40. The Chairman said that he was confident that the EA Panel would deal with the matter in a fair and impartial manner. He suggested that the Panel should issue a circular as early as possible to invite Members to indicate interest in joining the visit.

41. Ms Cyd HO said that she would instruct the Panel Clerk to issue the circular as soon as possible. Should the number of interested Members be too large, she would invite all Members concerned to a meeting to discuss the matter.

42. Mr Vincent FANG opined that given the time constraint, HC should consider setting a limit on the size of the delegation.

43. The Chairman invited Members present to indicate their interest in joining the proposed duty visit by a show of hands. Over 10 Members indicated their interest.

44. Mr LEUNG Kwok-hung stressed that in determining the membership of the delegation, Panel members should have priority over non-Panel members.

45. Mr Jeffrey LAM pointed out that the size of the delegation would also depend on whether the organizations concerned in Seoul could accommodate a large number of delegates. He supported referring the matter back to the EA Panel for further consideration.

46. The Chairman concluded that the EA Panel's proposal to conduct an overseas duty visit to Seoul was supported. He added that Members also agreed that the visit should be open to all Members and the decision on the size and membership of the delegation should be left to the Panel.

47. There being no other business, the meeting ended at 2:55 pm.