

立法會
Legislative Council

LC Paper No. CB(2)1027/12-13

Ref : CB2/H/5/12

House Committee of the Legislative Council

**Minutes of the 22nd meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 19 April 2013**

Members present:

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

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

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 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 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 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 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:

Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Dr Hon LEUNG Ka-lau
Hon WONG Kwok-kin, BBS
Hon Michael TIEN Puk-sun, BBS, JP
Hon WU Chi-wai, MH

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 Timothy TSO	Acting 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
Mr Bonny LOO	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
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 verbatim transcript/minutes of meetings

- (a) **Verbatim transcript of the special meeting held on 22 March 2013**
(LC Paper No. CB(2)986/12-13)
- (b) **Minutes of the 21st meeting held on 12 April 2013**
(LC Paper No. CB(2)987/12-13)

The above two sets of verbatim transcript/minutes of meetings were confirmed.

II. Matters arising

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

2. The Chairman said that CS had indicated her intention to attend the meeting of the Subcommittee on Poverty formed under the House Committee ("HC") scheduled for 20 May 2013 to brief Members on the Administration's proposal to inject fund into the Community Care Fund. Subject to Members' support, the Administration planned to apply for funding from the Finance Committee in mid June. The Chairman further said that CS had also proposed to attend another special HC meeting in early or mid June 2013 to answer Members' questions on other policy issues. The Legislative Council ("LegCo") Secretariat would follow up with the Administration Wing on the meeting date.

3. Mr James TO said that as the Council meeting of 17 April 2013 was adjourned due to a lack of quorum, the amendments proposed by the Administration and several Members to the Import and Export (General) (Amendment) Regulation 2013 ("the Amendment Regulation") could not be dealt with before the expiry of the scrutiny period of the Amendment Regulation. The latter would continue to be in force in its original form. Mr TO further said that the existing definition of powdered formula was unclear and members of the Subcommittee on the Amendment Regulation were in general supportive of the proposed amendment put forward by the Administration. It should present its proposed amendment to the definition of powdered formula by way of another subsidiary legislation and arrange for its gazettal as early as possible for the scrutiny of LegCo. He requested the Chairman to relay his view to CS.

4. Ms Cyd HO considered it regrettable that the amendments proposed to the Amendment Regulation could not be dealt with in Council. Had votes been taken on the proposed amendments, a clearer definition of powdered formula could have been effected. She shared Mr James TO's view that the Administration should introduce as early as possible another subsidiary legislation on its proposed amendment to the definition of powdered formula.

5. Ms Cyd HO further said that to facilitate the public to better understand what constituted an offence under the Amendment Regulation, she had requested the Food and Health Bureau to make public the enhanced operational guidelines (with photographic images of products falling within regulation), which the Administration issued on the day before this meeting to its front-line law enforcement officers to facilitate their enforcement work. Her request was however turned down by the Administration. She asked the Chairman to relay her view and request to CS.

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6. The Chairman agreed to relay Members' views and requests to CS. The Chairman further proposed that Mr Alan LEONG, Chairman of the Panel on Food Safety and Environmental Hygiene, should write to the Administration on the matter as it fell within the purview of the Panel. Members agreed.

III. Business arising from previous Council meetings

(a) Legal Service Division report on bill referred to the House Committee in accordance with Rule 54(4)

Stamp Duty (Amendment) Bill 2013
(*LC Paper No. LS40/12-13*)

7. At the invitation of the Chairman, Legal Adviser ("LA") said that the Bill sought to amend the Stamp Duty Ordinance (Cap. 117) to implement measures to further address the overheated property market. The Bill proposed to impose a higher rate of ad valorem stamp duty on certain instruments dealing with residential and non-residential properties acquired on or after 23 February 2013, except those in respect of residential properties of which the purchasers were Hong Kong Permanent Residents who were not beneficial owners of any other residential property in Hong Kong on the date of acquisition.

8. LA further said that the Bill also provided a refund mechanism to cater for acquisition of properties for the purpose of redevelopment. An empowering section was added to provide that the Financial Secretary might, by notice published in the Gazette, amend the value bands and rates with respect to stamp duty chargeable on conveyance on sale and agreement for sale. LA added that the Panel on Financial Affairs and the Panel on Housing had been consulted on the legislative proposals at a joint meeting on 26 March 2013, and various concerns had been expressed by members of the two Panels.

9. Mr SIN Chung-kai considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Mr CHAN Kam-lam, Mr LEUNG Che-cheung and Mr SIN Chung-kai.

(b) Legal Service Division report on subsidiary legislation gazetted on 12 April 2013
(*LC Paper No. LS39/12-13*)

10. At the invitation of the Chairman, LA said that four items of

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subsidiary legislation were gazetted on 12 April 2013, i.e. three items of subsidiary legislation tabled in the Council on 17 April 2013 and one Regulation made under the United Nations Sanctions Ordinance (Cap. 537) ("UNSO") which was not required to be tabled in the Council.

11. Regarding the Banking (Capital) (Amendment) Rules 2013 (L.N. 51) and the Banking (Disclosure) (Amendment) Rules 2013 (L.N. 52), LA said that they were to implement in Hong Kong the revised regulatory capital and disclosure requirements promulgated by the Basel Committee on Banking Supervision (known as "Basel III"), and both of them would come into operation on 30 June 2013. The Administration had consulted the Panel on Financial Affairs at its meeting on 4 June 2012. Some members expressed concern as to whether banks, in particular small and medium-sized institutions, would incur additional costs in complying with the Basel III standards. LA further said that the Legal Service Division had written to the Administration seeking clarification on certain drafting aspects of the Amendment Rules, and had just received its reply. The Division was studying the Administration's reply and a further report would be issued, if necessary.

12. Mr SIN Chung-kai considered it necessary to form a subcommittee to study L.N. 51 and L.N. 52 in detail. Members agreed. Mr SIN agreed to join the proposed subcommittee.

13. As regards the Residential Care Homes (Persons with Disabilities) Ordinance (Commencement) Notice 2013 (L.N. 53), LA said that it sought to appoint 10 June 2013 as the day on which Part 2 (i.e. sections 4 to 6) of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) would come into operation.

14. Mr CHEUNG Kwok-che considered it necessary for Members to follow up the latest progress of the implementation of the licensing scheme for residential care homes for persons with disabilities, and proposed that a subcommittee be formed to study the Notice in detail. Members agreed. The following Members agreed to join the subcommittee: Mr CHEUNG Kwok-che, Dr Fernando CHEUNG, Dr Helena WONG and Mr TANG Ka-piu.

15. Regarding the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2013 (L.N. 54) made under UNSO which was not subject to amendment by LegCo, the Chairman suggested that it be referred to the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions as it came within the Subcommittee's terms of reference. Members agreed.

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16. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation (except the subsidiary legislation not required to be tabled in the Council) was 15 May 2013, or 5 June 2013 if extended by a resolution of the Council.

IV. Further business for the Council meeting of 24 April 2013

Meeting arrangement for the Council meeting of 24 April 2013

17. The Chairman informed Members that the unfinished business on the Agenda of the Council meeting of 17 April 2013 would be dealt with at the Council meeting of 24 April 2013.

18. The Chairman further informed Members that in accordance with rule 7(e) of the House Rules, there would be no arrangement for Members to put oral questions to the Government at the Council meetings for debate on the Appropriation Bill and for the policy debate. As such, in the event that the debate on the Appropriation Bill 2013 had to stand over to the Council meeting of 8 May 2013 and any other subsequent Council meeting, there would be no oral question session at those Council meetings and the 22 questions would all be written questions. Members noted the arrangement.

19. Ms Emily LAU enquired about the arrangement for the debate on the Appropriation Bill 2013 at the Council meeting of 24 April 2013.

20. At the invitation of the Chairman, Secretary General ("SG") said that the remaining stages of the proceedings on the Appropriation Bill 2013 would be dealt with at the Council meeting of 24 April 2013. When the Second Reading debate on the Appropriation Bill 2013 resumed at the Council meeting of 24 April 2013, the 24 Members who had yet to speak on the Bill could make their speeches. After that, the Administration would provide its responses and Members would vote on the Second Reading of the Bill. Subject to the motion for the Second Reading of the Bill being agreed to, the provisions of as well as amendments to the Bill would be dealt with in the committee of the whole Council, to be followed by the Third Reading of the Bill.

21. In response to Mr Gary FAN's enquiry on the meeting days and time of the Council meeting of 24 April 2013, SG said that on the instruction of the President, the Secretariat had consulted Members on the meeting arrangement for the upcoming Council meeting. The Secretariat was consolidating the views received and would report to the President for his decision.

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22. Mr Albert CHAN said that the three Members belonging to People Power had to be in court to receive a judgment in the morning of Monday, 29 April. He hoped that the President would consider not resuming the Council meeting that morning.

23. Mr LEUNG Kwok-hung said that if it was decided that the Council meeting would not resume on Saturday, 27 April and Sunday, 28 April, he saw no reason why the break could not continue in the morning of Monday, 29 April. He cautioned that meeting for long hours continuously without break would adversely affect the health of Members.

24. Mr WONG Kwok-hing opined that the days of the Council meeting should be decided having regard to the majority view of Members, and it was not possible or necessary to accommodate the needs of individual Members.

25. Dr CHIANG Lai-wan considered the request of Members belonging to People Power for not resuming the Council meeting in the morning of 29 April 2013 unreasonable. She pointed out that it would not be necessary to hold lengthy Council meetings if these Members withdrew the Committee stage amendments they had proposed to the Appropriation Bill 2013.

26. Mr WONG Yuk-man said that Members belonging to People Power had indicated their unavailability to attend the Council meeting in the morning of 29 April 2013 merely for the information of Members. He stressed that it was for the President to make the decision.

27. Ms Cyd HO said that Members belonging to the Labour Party had conveyed to the Secretariat their view that the Council meeting of 24 April 2013 should continue only on Wednesday, Thursday and Friday, leaving Saturday for public hearings and Monday and Tuesday for the holding of other committees meetings, so that the operation of the Council would not be unduly affected.

28. The Chairman said that the Secretariat had received Members' views on the arrangement for the Council meeting of 24 April 2013. They would be relayed to the President for his consideration and decision.

Tabling of papers

**Report No. 15/12-13 of the House Committee on Consideration of
Subsidiary Legislation and Other Instruments**

(LC Paper No. CB(2)990/12-13 issued vide LC Paper No. CB(3)495/12-13 dated 17 April 2013)

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29. The Chairman said that the Report covered five items of subsidiary legislation, the period for amendment of which would expire on 24 April 2013. No Member had indicated intention to speak on the subsidiary legislation.

V. Advance information on business for the Council meeting of 8 May 2013

Members' bills - First Reading and moving of Second Reading

Professional Accountants (Amendment) Bill 2013

30. The Chairman said that Mr Kenneth LEUNG had given notice to present the above Bill to the Council on 8 May 2013. HC would consider the Bill at its meeting on 10 May 2013.

VI. Position on Bills Committees and subcommittees
(LC Paper No. CB(2)988/12-13)

31. The Chairman said that as at 18 April 2013, there were seven Bills Committees, seven subcommittees under HC (i.e. three subcommittees on subsidiary legislation, one subcommittee on policy issues and three 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. Any other business

32. There being no other business, the meeting ended at 2:53 pm.