

立法會
Legislative Council

LC Paper No. CB(2)1503/12-13

Ref : CB2/H/5/12

House Committee of the Legislative Council

**Minutes of the 31st meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 28 June 2013**

Members present:

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

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

Hon LEE Cheuk-yan

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

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 Mrs Regina IP LAU Suk-yee, GBS, JP

Hon Paul TSE Wai-chun, JP

Hon Alan LEONG Kah-kit, SC

Hon LEUNG Kwok-hung

Hon Albert CHAN Wai-yip

Hon WONG Yuk-man

Hon Claudia MO

Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon CHAN Han-pan
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
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
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 Tony TSE Wai-chuen

Members absent:

Hon Albert HO Chun-yan
Hon James TO Kun-sun
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Dr Hon Joseph LEE Kok-long, SBS, JP
Dr Hon LEUNG Ka-lau
Hon Michael TIEN Puk-sun, BBS, JP
Dr Hon Kenneth CHAN Ka-lok
Hon Kenneth LEUNG
Dr Hon Elizabeth QUAT, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, 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
Ms Dora WAI	Acting 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)
Ms Emily PANG	Acting Head (Public Information)
Ms Amy YU	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Mr Timothy TSO	Assistant Legal Adviser 2
Ms Wendy KAN	Assistant Legal Adviser 6
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 30th meeting held on 21 June 2013

(LC Paper No. CB(2)1455/12-13)

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

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

Waste Disposal (Amendment) Bill 2013

(LC Paper No. LS66/12-13)

3. At the invitation of the Chairman, Legal Adviser ("LA") explained that the Bill sought to amend the Waste Disposal Ordinance (Cap. 354) to enhance the regulatory regime for the depositing of waste by requiring that the depositing of construction waste on private land could only be carried out with the permission from the sole owner or all of the owners of the land and that such permission must be given in a specified form affixed with an acknowledgement by the Director of Environmental Protection.

4. LA further said that the Administration had consulted the public on the legislative proposal in 2010 and the wider community generally welcomed the Government to take further action to deal with the fly-tipping of construction waste. However, some landowners expressed concern that the new mechanism would impose restrictions on how they might use their land. The Panel on Environmental Affairs was briefed on the progress of the legislative exercise on 25 February 2013 and members expressed various concerns. LA advised that in view of the concerns of the public and Panel members, Members might wish to set up a Bills Committee to study the Bill in detail.

5. Ms Cyd HO considered it necessary to form a Bills Committee to study the Bill in detail, given its implications on land use, land ownership and environmental protection. Members agreed. The following Members agreed to join the Bills Committee: Ms Cyd HO, Mr CHAN Hak-kan, Mr WU Chi-wai and Mr KWOK Wai-keung.

(b) **Legal Service Division report on subsidiary legislation gazetted on 21 June 2013 and tabled in Council on 26 June 2013**

(LC Paper No. LS65/12-13)

6. At the invitation of the Chairman, LA said that one item of subsidiary legislation, i.e. the Solicitors (General) Costs (Amendment) Rules 2013 (L.N. 110), was gazetted on 21 June 2013 and tabled in Council on 26 June 2013. L.N. 110 amended the Third Schedule to the Solicitors (General) Costs Rules (Cap. 159 sub. leg. G), which applied to all solicitors' non-contentious business, in relation to the costs for copying documents.

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7. LA further said that in the course of scrutinizing L.N. 110, the Legal Service Division ("LSD") noted that while L.N. 110 should be made by the Costs Committee of The Law Society of Hong Kong ("The Law Society") in accordance with section 74 of the Legal Practitioners Ordinance (Cap. 159), it was apparently made by the 20 members of the Council of The Law Society. LSD was making enquiry with The Law Society and would report further upon receipt of The Law Society's reply.

8. Mr Dennis KWOK said that he had discussed the matter with The Law Society. It was his understanding that The Law Society was studying the matter and would reply to LSD as soon as possible.

9. Members agreed to defer the decision on whether to form a subcommittee on L.N. 110 to the next House Committee ("HC") meeting.

IV. Further business for the Council meeting of 3 July 2013

Questions

(LC Paper No. CB(3)723/12-13)

10. The Chairman said that Dr CHIANG Lai-wan had replaced her oral question.

V. Business for the Council meeting of 10 July 2013

(a) Questions

(LC Paper No. CB(3)722/12-13)

11. The Chairman informed Members that 22 questions (six oral and 16 written) had been scheduled for the meeting.

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

Securities and Futures (Amendment) Bill 2013

12. The Chairman said that the Administration had given notice to present the above Bill to the Council on 10 July 2013. HC would consider the Bill at its meeting on 12 July 2013.

(c) **Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**

- (i) **Arbitration (Amendment) Bill 2013**
- (ii) **Hong Kong Arts Development Council (Amendment) Bill 2013**
- (iii) **Inland Revenue (Amendment) Bill 2013**
- (iv) **Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Bill 2012**
- (v) **Supplementary Appropriation (2012-2013) Bill**
- (vi) **Air Pollution Control (Amendment) Bill 2013**

13. The Chairman said that at the last HC meeting, Members did not raise objection to the resumption of the Second Reading debates on the above six Bills.

(d) **Government motions**

- (i) **Four proposed resolutions to be moved by the Secretary for Financial Services and the Treasury under the Bankruptcy Ordinance (Cap. 6) and the Companies Ordinance (Cap. 32)**
(Wording of the proposed resolutions issued vide LC Paper No. CB(3)707/12-13 dated 21 June 2013)
(LC Paper No. LS64/12-13)

14. At the invitation of the Chairman, LA said that the four proposed resolutions sought the approval of the Legislative Council ("LegCo") of the Bankruptcy (Amendment) Rules 2013, the Bankruptcy (Fees and Percentages) (Amendment) Order 2013, the Companies (Fees and Percentages) (Amendment) Order 2013 and the Companies (Winding-up) (Amendment) Rules 2013 to reduce certain fees, deposits and charges in relation to bankruptcy and winding-up proceedings. According to the LegCo Brief, if the proposed fee revision came into effect in July 2013, the Official Receiver's Office's projected cost recovery rate for 2013-2014 would be around 100%. The Panel on Financial Affairs was consulted at its meeting on 3 May 2013 and members did not object to the proposed fee reduction.

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15. Mr CHEUNG Kwok-che considered it necessary to receive public views on the proposed fee revision, and suggested that a subcommittee be formed to study the four proposed resolutions in detail. Members agreed. The following Members agreed to join the subcommittee: Ms Cyd HO, Mr CHEUNG Kwok-che and Mr SIN Chung-kai.

16. The Chairman said that in line with the established practice and the arrangement agreed with the Administration, the Administration would be requested to withdraw its notices for moving the proposed resolutions so as to allow sufficient time for the subcommittee to scrutinize the proposed resolutions.

(ii) Proposed resolution to be moved by the Secretary for Food and Health under section 29 of the Pharmacy and Poisons Ordinance (Cap. 138)

(Wording of the proposed resolution issued vide LC Paper No. CB(3)702/12-13 dated 20 June 2013)

(LC Paper No. LS63/12-13)

17. At the invitation of the Chairman, LA explained that the proposed resolution sought LegCo's approval of the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2013 and the Poisons List (Amendment) (No. 4) Regulation 2013 to add two substances to Division A in each of the First and Third Schedules to the Pharmacy and Poisons Regulations and to Division A of Part I of the Schedule to the Poisons List Regulations. LA further explained that following the addition of these two substances to the principal Regulations, the sale, supply, labelling and storage of these two substances would be subject to different levels of control under the Pharmacy and Poisons Ordinance (Cap. 138). The Amendment Regulations, if approved by LegCo, would come into operation on the day of their publication in the Gazette.

18. Members did not raise any objection to the Administration moving the proposed resolution at the Council meeting of 10 July 2013.

(e) Members' motions

(i) Motion to be moved by Hon KWOK Wai-keung

(ii) Motion to be moved by Hon Andrew LEUNG

19. The Chairman said that the subjects of the motions to be moved by Mr KWOK Wai-keung and himself were "Promoting the waste recycling industry to create employment opportunities" and "Impact of the United States' ending the quantitative easing measures" respectively. The wording of the motions had been issued to Members.

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20. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 3 July 2013.

Report of HC on Consideration of Subsidiary Legislation

21. The Chairman invited Members to note the list containing one item of subsidiary legislation tabled at the meeting, the period for amendment of which would expire on 10 July 2013. He further informed Members that the draft report of HC on this item of subsidiary legislation (LC Paper No. CB(2)1482/12-13(01) had been issued to Members in the morning of this HC meeting. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 2 July 2013.

VI. The Chief Executive's Question and Answer Session on 11 July 2013

22. The Chairman said that the Chief Executive ("CE")'s Question and Answer Session would be held from 9:30 am to 11:00 am.

23. Ms Emily LAU said that members of CE's governing team had recently given different versions of the timing of the Administration's public consultation on constitutional reform, which was confusing to the public. Ms LAU asked the Chairman to convey her request for CE to give a clear indication on the timetable for public consultation on constitutional reform at the Question and Answer Session to be held on 11 July 2013.

24. The Chairman said that he would relay Ms Emily LAU's request to the Chief Secretary for Administration at their next meeting.

VII. Report of Bills Committees and subcommittees

(a) Third report of the Subcommittee on Subsidiary Legislation Made under the New Companies Ordinance

25. Mr WONG Ting-kwong, Chairman of the Subcommittee, gave a verbal report on the deliberations of the Subcommittee. He said that the Subcommittee had held three meetings to scrutinize the third batch of seven items of subsidiary legislation made under the new Companies Ordinance ("CO").

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26. Mr WONG Ting-kwong said that as the motion for extending the scrutiny period of the two items of subsidiary legislation in the second batch were not dealt with at the Council meeting of 24 April 2013, the Administration was unable to move proposed resolutions to amend the two items of subsidiary legislation before the deadline for amendment. The Administration had therefore introduced the proposed amendments by way of two amendment regulations, i.e. the Companies (Revision of Financial Statements and Reports) (Amendment) Regulation 2013 and the Companies (Disclosure of Information about Benefits of Directors) (Amendment) Regulation 2013 in the third batch of subsidiary legislation. The Subcommittee supported these two Amendment Regulations.

27. Regarding the Company Records (Inspection and Provision of Copies) Regulation, Mr WONG Ting-kwong informed Members that the Administration had taken on board the Subcommittee's suggestion that the period within which a company was required to provide copies of company records should be changed from five to 10 business days to minimize the compliance burden for companies. The Administration would also move amendments to the Companies (Model Articles) Notice and the Companies (Non-Hong Kong Companies) Regulation to improve the drafting and reflect more accurately the policy intent of certain provisions. Mr WONG pointed out that the Subcommittee noted that under the Companies (Fees) Regulation, companies limited by guarantee would be subject to an escalating scale for late filing of annual returns as in the case for companies limited by shares. The rest of the items under the Regulation were in line with the corresponding items or fee levels as stipulated in the existing CO. Mr WONG added that the Subcommittee supported these four items of subsidiary legislation.

28. Mr WONG Ting-kwong further informed Members that the Subcommittee had also studied the Companies (Unfair Prejudice Petitions) Proceedings Rules made by the Chief Justice, which was subject to the positive vetting procedure. The Subcommittee supported the Administration giving fresh notice to move the proposed resolution on the Rules at the Council meeting of 17 July 2013.

29. Mr WONG Ting-kwong said that the Subcommittee had scrutinized a total of 12 items of subsidiary legislation made for implementing the new CO. The Subcommittee noted the Administration's plan to introduce into LegCo in October 2013 the Companies Ordinance (Commencement) Notice 2013 as well as the Companies Ordinance (Amendment of Schedule 7) Notice 2013 and the Companies Ordinance (Amendment of Schedule 10) Notice 2013 to update the relevant schedules and make consequential amendments, which were the last three items of subsidiary legislation for bringing the

Action

new CO into operation in the first quarter of 2014. The Administration had suggested that these three items of subsidiary legislation be scrutinized by the Subcommittee when they were introduced into LegCo, so as to ensure continuity in the relevant legislative work. The Subcommittee considered the Administration's proposal at its meeting on 20 June 2013 and raised no objection to it. The Subcommittee therefore invited HC to consider the Administration's proposal.

30. Mr WONG Ting-kwong added that the Subcommittee would provide its written report later.

31. The Chairman said that according to the normal practice, the Subcommittee would be dissolved as soon as the scrutiny period of the relevant subsidiary legislation expired and the relevant proposed resolution had been dealt with in Council. When the Administration introduced the three items of subsidiary legislation to be made under the new CO in October 2013, HC would then consider the need to form a new subcommittee to study the subsidiary legislation. Members of the existing Subcommittee could join the new subcommittee if they wished to do so. Such an arrangement would be in line with the normal practice.

32. At the invitation of the Chairman, Secretary General said that the proper arrangement was to form a new subcommittee to study the subsidiary legislation to be introduced in October 2013. Members agreed to follow such an arrangement.

33. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the seven items of subsidiary legislation, was Wednesday, 10 July 2013.

(b) Report of the Subcommittee on Tate's Cairn Tunnel Ordinance (Amendment of Schedule) Notice 2013

(LC Paper No. CB(1)1380/12-13)

34. Mr James TIEN, Chairman of the Subcommittee, reported that the Subcommittee had completed its scrutiny work. The Subcommittee noted that pursuant to the relevant provisions in the Interpretation and General Clauses Ordinance (Cap. 1) and the Tate's Cairn Tunnel Ordinance (Cap. 393), there was little room for LegCo to repeal or to amend the Notice, other than making minor technical amendments to it. The Subcommittee discussed the justifications for the toll increases of Tate's Cairn Tunnel Company Limited, and urged the Administration to consider the affordability of the public and the impact on traffic in assessing applications for toll increases.

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35. Mr James TIEN further reported that the Subcommittee would not move any amendment to the Notice. He referred Members to the Subcommittee's report for details of its deliberations.

36. The Chairman reminded Members that as the deadline for amending the Notice was 10 July 2013, the deadline for giving notice of amendments, if any, was Wednesday, 3 July 2013.

(c) Report of the Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013 and Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013

37. Mr WONG Ting-kwong, Chairman of the Subcommittee, gave a verbal report on the deliberations of the Subcommittee. He said that the Subcommittee had completed its scrutiny work and supported in principle the Administration's proposed increases of the minimum and maximum levels of relevant income for Mandatory Provident Fund ("MPF") contributions. Mr WONG further said that the Subcommittee noted that the proposed increase of the minimum level of relevant income, which would alleviate the financial burden of making MPF contributions of low-income workers, would take effect on 1 November 2013. As regards the maximum level of relevant income ("the Max RI"), the Administration explained that it originally proposed to adjust it from \$20,000 to \$30,000 in June 2012. Having regard to the diverse views at the time, the Administration agreed to adopt a phased approach by first increasing the Max RI to \$25,000 with effect from June 2012. After consulting the views of both employees and employers, the Administration proposed to increase the Max RI to \$30,000 with effect from June 2014.

38. Mr WONG Ting-kwong informed Members that the Subcommittee would not move any amendment to the two Notices, and did not raise objection to the Administration giving fresh notices to move the two proposed resolutions at the Council meeting of 17 July 2013. The Subcommittee would provide its written report later.

39. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the Notices was Wednesday, 10 July 2013.

VIII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2)1456/12-13)

40. The Chairman informed Members that as at 27 June 2013, there were seven 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.

IX. Any other business

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

Council Business Division 2
Legislative Council Secretariat
4 July 2013