

立法會
Legislative Council

LC Paper No. CB(1)540/13-14
(These minutes have been seen
by the Administration)

Ref: CB1/BC/2/13

Bills Committee on Air Pollution Control (Amendment) (No. 2) Bill 2013

**Minutes of the first meeting held on
Tuesday, 5 November 2013, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Members present : Hon Kenneth LEUNG (Chairman)
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan, JP
Dr Hon LEUNG Ka-lau
Hon WU Chi-wai, MH
Hon Charles Peter MOK
Dr Hon Kenneth CHAN Ka-lok
Dr Hon Fernando CHEUNG Chiu-hung
Hon POON Siu-ping, BBS, MH

Members absent : Hon TANG Ka-piu
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Public Officers attending : **Agenda item II**

Mr MOK Wai-chuen, JP
Assistant Director (Air Policy)
Environmental Protection Department

Mr Dave HO Tak-yin
Principal Environmental Protection Officer (Air Policy)
Environmental Protection Department

Mr YEUNG Mo-man
Senior Environmental Protection Officer (Air Policy)²
Environmental Protection Department

Dr Raymond LEUNG Lai-man, JP
Occupational Health Consultant (1)
Labour Department

Mr CHEUNG Hon-chung
Senior Occupational Hygienist (Development)
Labour Department

Mr Allen LAI Kai-pang
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (1)²

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Macy NG
Senior Council Secretary (1)²

Ms Emily LIU
Legislative Assistant (1)²

Action

I Election of Chairman

Ms Cyd HO, the member with the highest seniority among those present at the meeting, presided at the election of Chairman of the Bills Committee. She invited nominations for the chairmanship of the Bills Committee.

2. Mr Charles Peter MOK nominated Mr Kenneth LEUNG, and the nomination was seconded by Dr LEUNG Ka-lau. Mr Kenneth LEUNG accepted the nomination.

Action

3. There being no other nominations, Mr Kenneth LEUNG was elected Chairman of the Bills Committee.

4. Members agreed that there was no need to elect a deputy chairman of the Bills Committee.

II Meeting with the Administration

(LC Paper No. CB(3)12/13-14

File Ref: EP351/A4/1

- The Bill

- The Legislative Council Brief issued by the Environment Bureau

LC Paper No. LS5/13-14

- Legal Service Division Report on the Bill

LC Paper No. CB(1)222/13-14(01)

- Paper on Air Pollution Control (Amendment)(No. 2) Bill 2013 prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1)222/13-14(02)

- Marked-up copy of the Bill prepared by the Legal Service Division

LC Paper No. CB(1)222/13-14(03)

- Submission from Hong Kong Workers' Health Centre)

5. The Administration briefed members on the Air Pollution Control (Amendment) (No. 2) Bill 2013 ("the Bill").

6. The Bills Committee deliberated (index of proceedings attached in **Annex**).

Discussion

7. Members expressed the following major concerns about the Bill at the meeting –

(a) implications and considerations of the Authority regarding the non-application and exemption of the proposed ban on use, supply, import and transhipment of asbestos; and

(b) it was necessary to enhance public's knowledge on the existence of asbestos and asbestos containing material in Hong Kong, so that they knew about the necessary procedures and precautionary

Action

measures to be taken in handling the material.

Admin 8. To facilitate further discussion on the Bill, the Administration was requested to provide the following information –

- (a) In relation to Chinese medicine –
 - (i) if a proprietary Chinese medicine contained any kind of asbestos or asbestos containing material in the medicine's formula, whether such information would be expressly stated on the drug label of the medicine concerned;
 - (ii) the demand for proprietary Chinese medicines and Chinese herbal medicines which contained asbestos or asbestos containing material in Hong Kong; and
 - (iii) whether there were any substitutes to the medicines that were mentioned in paragraph (ii) above.
- (b) Apart from proprietary Chinese medicine, whether any asbestos or asbestos containing material could be found in the formulae of other types of medicine (such as Chinese herbal medicine) or pharmaceutical products which could be legally supplied or consumed in Hong Kong.
- (c) The recent statistics in Hong Kong on the quantity of goods in transit and transshipment which contained asbestos materials.
- (d) In relation to qualified asbestos professionals, including asbestos consultants, contractors and supervisors who were registered under the Air Pollution Control Ordinance (Cap. 311) ("APCO") –
 - (i) the requirements for being such qualified professionals;
 - (ii) the number of such professionals in Hong Kong who were qualified to engage in the demolition works of building structures involving asbestos containing materials;
 - (iii) the range of fees for carrying out the aforesaid demolition works; and
 - (iv) whether the duration of carrying out such works, including the time which the Administration might spend on handling

any relevant plans submitted by any of such qualified professionals, was regulated by legislation.

- (e) In relation to section 78 of the APCO and the proposed section 78 on the subject of Defences, the Administration's considerations with respect to –
 - (i) the amendments as stated in the proposed section 78(1)(b); and
 - (ii) the addition of the proposed section 78(2).
- (f) In relation to the proposed sections 80, 82 and 83 on the proposed ban on use, supply, impact and transshipment of asbestos and exemption –
 - (i) with respect to the term "exempted person" which appeared in section 82 and in the light of the Chinese Medicine Ordinance (Cap. 549) ("CMO"),
 - (a) clarifications on the persons who were exempted under section 158(1) of the CMO from the application of section 119 of the CMO; and
 - (b) the Administration's considerations in proposing section 80.
 - (ii) with respect to the proposed sections 82(3) and 82(4), given that the term "asbestos" did not appear in the two respective subsections, it seemed that the proposed section 80 (which concerned both asbestos and asbestos containing material) would be applicable to an exempted person for a proprietary Chinese medicine who conducted any of the activities stated in the said subsections in relation to asbestos but not to such person who conducted the same kinds of activities in relation to asbestos containing material. In the light of the aforesaid, the Administration's considerations in drafting the said subsections;
 - (iii) with respect to the proposed section 82, information on whether any asbestos, in its pure form, could be used as a medication or pharmaceutical product which could be legally supplied or consumed in Hong Kong;

Action

- (iv) with respect to the proposed section 82 and in the light of Schedule 2 to the Hazardous Chemicals Control Ordinance (Cap. 595) ("HCCO"), whether the Administration considered it necessary to extend the scope of the proposed section 82 to cover any asbestos or asbestos containing material which were listed under Part 2 of Schedule 2 to HCCO and the relevant considerations of the Administration; and
- (v) with respect to the proposed section 83, the factors which the Authority would take into account in deciding whether the requirements as stated in the proposed section 83(1)(a) and (b) had been satisfied.
- (g) The Administration's written response to a submission from the Hong Kong Workers' Health Centre (LC Paper No. CB(1)222/13-14(03)).

Date of next meeting

9. Members agreed to hold the next meeting on 19 November 2013 to meet with the Administration and receive public views on the Bill on 2 December 2013.

III Any other business

10. There being no other business, the meeting ended at 12:03 pm.

Council Business Division 1
Legislative Council Secretariat
13 December 2013

**Proceedings of the first meeting of
the Bills Committee on Air Pollution Control (Amendment) (No. 2) Bill 2013
on Tuesday, 5 November 2013, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Election of Chairman			
000146 – 000418	Ms Cyd HO Mr Charles Peter MOK Dr LEUNG Ka-lau Mr Kenneth LEUNG	<ul style="list-style-type: none"> - Election of Chairman - Mr Kenneth LEUNG was elected as the Chairman of the Bills Committee ("BC") - Members' agreement that there was no need to elect a deputy chairman of the BC - The Chairman's reminder to members on the need, if any, to declare interest relating to the Air Pollution Control (Amendment) (No. 2) Bill 2013 ("the Bill") 	
Agenda item II – Meeting with the Administration			
000419 – 000726	Chairman Administration	<ul style="list-style-type: none"> - Briefing by the Administration on the Bill 	
000727 – 001923	Chairman Dr Kenneth CHAN Administration	<ul style="list-style-type: none"> - Dr CHAN's indication that he supported the Bill - Discussion on the considerations of the Administration for not applying the prohibition under the Bill to some asbestos containing proprietary Chinese medicines and the implications of the Administration's proposal - Discussion on the need to provide information to the public or building owners on aged buildings which might contain asbestos materials in their structures to safeguard public health - At the request of Dr CHAN, the Administration agreed to provide the following supplementary information – <ul style="list-style-type: none"> (a) if a proprietary Chinese medicine contained any kind of asbestos or asbestos containing material in the medicine's formula, whether such information would be expressly stated on the drug label of the medicine concerned; and (b) apart from proprietary Chinese medicine, whether any asbestos or asbestos containing 	Administration to provide information/response (paragraph 8 of minutes)

Time marker	Speaker	Subject(s)	Action required
		<p>material could be found in the formulae of other types of medicine (such as Chinese herbal medicine) or pharmaceutical products which could be legally supplied or consumed in Hong Kong</p>	
001924 – 002351	Chairman Mr CHAN Hak-kan Administration	<ul style="list-style-type: none"> - Mr CHAN's indication that he supported the Bill - In response to Mr CHAN's enquiry, the Administration clarified that the prohibition under the Bill was applicable to transshipment of asbestos or asbestos containing material but not goods in transit - At the request of Mr CHAN, the Administration agreed to provide supplementary information on the recent statistics in Hong Kong on the quantity of goods in transit and transshipment which contained asbestos material 	Administration to provide information/response (paragraph 8 of minutes)
002352 – 003336	Chairman Mr WU Chi-wai Administration	<ul style="list-style-type: none"> - Mr WU's concern over the high cost involved in engaging qualified asbestos professionals in the demolition works of building structures involving asbestos containing material - The Administration responded that there were at present nine registered asbestos contractors under the Air Pollution Control Ordinance (Cap. 311) ("APCO") and the Administration welcomed any other capable contractors to get registered under the APCO. In addition, the fees of carrying out the relevant demolition works should be determined by the market - At the request of Mr WU, the Administration agreed to provide the following supplementary information – <ul style="list-style-type: none"> (a) the requirements for being such qualified professionals; (b) the number of such professionals in Hong Kong who were qualified to engage in the demolition works of building structures involving asbestos containing material; (c) the range of fees for carrying out the aforesaid demolition works; and 	Administration to provide information/response (paragraph 8 of minutes)

Time marker	Speaker	Subject(s)	Action required
		(d) whether the duration of carrying out such works, including the time which the Administration might spend on handling any relevant plans submitted by any of such qualified professionals, was regulated by legislation.	
003337 – 004341	Chairman Dr LEUNG Ka-lau Administration	<ul style="list-style-type: none"> - Discussion on the concerns raised by the Hong Kong Workers' Health Centre in its submission (LC Paper No. CB(1)222/13-14(03)) and the Administration's agreement to provide written response to the submission - At the request of Dr LEUNG, the Administration also agreed to provide supplementary information on the demand for proprietary Chinese medicines and Chinese herbal medicine which contained asbestos or asbestos containing material in Hong Kong; and whether there were substitutes to the above medicines. - Discussion on the proposed sections 82(3) and 82(4) regarding the non-application of the proposed ban on use, supply, import and transshipment of asbestos 	Administration to provide information/response (paragraph 8 of minutes)
004342 – 005402	Chairman Ms Cyd HO Administration	<ul style="list-style-type: none"> - Ms HO's request for the Administration to provide written response to address the concerns raised by the Hong Kong Workers' Health Centre in its submission - Discussion on the proposed section 83 regarding the exemption from the proposed ban on use, supply, import and transshipment of asbestos - Ms HO's request for the Administration to provide supplementary information on – <ul style="list-style-type: none"> (a) the factors which the Authority would take into account in deciding whether the requirements as stated in the proposed section 83(1)(a) and (b) had been satisfied; and (b) in relation to section 78 of the APCO and the proposed section 78, the Administration's considerations with respect to the addition of the proposed section 78(2) 	Administration to provide information/response (paragraph 8 of minutes)

Time marker	Speaker	Subject(s)	Action required
005403 – 005948	Chairman Mr POON Siu-ping Administration	<ul style="list-style-type: none"> - Mr POON's expression of support for the Bill - Mr POON's view that there was a need to establish a register of aged buildings which contained asbestos material in their structures to safeguard the health of construction workers - The Administration's response that: <ul style="list-style-type: none"> (a) asbestos containing material in aged buildings which were well-kept should not pose a health hazard; (b) it would be difficult to establish an exhaustive register as tremendous work would be involved; and (c) corrugated cement sheets commonly used for canopies or roofing structures could be easily identified by visual inspection 	
005949 – 010545	Chairman Dr Kenneth CHAN Administration	<ul style="list-style-type: none"> - Dr CHAN's agreement that there should be some exemptions from the proposed ban and his request for the Administration to provide the following supplementary information with respect to the term "exempted person" which appeared in section 82 and in the light of the Chinese Medicine Ordinance (Cap. 549) ("CMO") – <ul style="list-style-type: none"> (a) clarifications on the persons who were exempted under section 158(1) of the CMO from the application of section 119 of the CMO; and (b) the Administration's considerations in proposing section 80 - Dr CHAN's consideration that there was a need to enhance public's awareness of the existence of asbestos and asbestos containing material in Hong Kong, and the necessary procedures and precautionary measures which should be taken in handling the material - The Administration's response that it was willing to study further measures to enhance public's awareness of asbestos 	Administration to provide information/ response (paragraph 8 of minutes)

Time marker	Speaker	Subject(s)	Action required
010546 – 010735	Chairman Ms Cyd HO Dr Kenneth CHAN	<ul style="list-style-type: none"> - Discussion on the need to hold a public hearing to receive views on the Bill and deputations to be invited - Dates of future meetings 	
010736 – 011648	Chairman ALA10 Ms Cyd HO	<ul style="list-style-type: none"> - ALA10's elaboration on the requested information by members at the meeting - ALA10's request for the Administration to provide the following supplementary information – <ul style="list-style-type: none"> (a) with respect to the proposed section 82 and in the light of Schedule 2 to the Hazardous Chemicals Control Ordinance (Cap. 595) ("HCCO"), whether the Administration considered it necessary to extend the scope of the proposed section 82 to cover any asbestos or asbestos containing material which satisfied any of the provisions as stated in Part 2 of Schedule 2 to HCCO and the relevant considerations of the Administration; (b) with respect to the proposed sections 82(3) and 82(4), given that the term "asbestos" did not appear in the two respective subsections, it seemed that the proposed section 80 (which concerned both asbestos and asbestos containing material) would be applicable to an exempted person for a proprietary Chinese medicine who conducted any of the activities stated in the said subsections in relation to asbestos but not to such person who conducted the same kinds of activities in relation to asbestos containing material. In the light of the aforesaid, the Administration's considerations in drafting the said subsections; and (c) with respect to the proposed section 82, information on whether any asbestos, in its pure form, could be used as a medication or pharmaceutical product which could be legally supplied or consumed in Hong Kong. - Ms HO's request for the Administration to provide supplementary information on its 	Administration to provide information/ response (paragraph 8 of minutes)

Time marker	Speaker	Subject(s)	Action required
		considerations with respect to the amendments as stated in the proposed section 78(1)(b)	
011649 – 011759	Chairman Administration Dr LEUNG Ka-lau	- Arrangements for the public hearing to be held on 2 December 2013	

Council Business Division 1
Legislative Council Secretariat
13 December 2013