

立法會
Legislative Council

LC Paper No. CB(1)825/13-14
(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 fourth meeting held on
Tuesday, 17 December 2013, at 2:30 pm
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 Charles Peter MOK
Dr Hon Kenneth CHAN Ka-lok
Dr Hon Fernando CHEUNG Chiu-hung
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Member absent : Hon WU Chi-wai, MH

**Public Officers
attending** : **Agenda item II**

Mr Andrew LAI Chi-wah, JP
Deputy Director of Environmental Protection (3)
Environmental Protection Department

Mr MOK Wai-chuen, JP
Assistant Director (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 Confirmation of minutes of meeting**
(LC Paper No. CB(1)540/13-14 - Minutes of meeting on
5 November 2013)

The minutes of the meeting held on 5 November 2013 were confirmed.

- II Meeting with the Administration**
(LC Paper No. CB(1)529/13-14(01) - List of follow-up actions arising
from the meeting on
2 December 2013

Action

- LC Paper No. CB(1)529/13-14(02) - Administration's response to issues raised at the meeting on 2 December 2013
- LC Paper No. CB(1)402/13-14(02) - Administration's response to issues raised at the meeting on 19 November 2013
- LC Papers Nos. CB(1)464/13-14(02) and CB(1)529/13-14(04) - Submission from Association for the Rights of Industrial Accident Victims and the Administration's response
- LC Paper No. CB(1)529/13-14(03) - Further submission from Hong Kong Workers' Health Centre)

2. The Administration briefed members on the papers which set out the Administration's response to the issues raised by members at the meetings on 19 November and 2 December 2013, and its response to a submission from the Association for the Rights of Industrial Accident Victims.

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

Clause-by-clause examination of the Air Pollution Control (Amendment) (No. 2) Bill 2013 ("the Bill")

- (LC Paper No. CB(3)12/13-14 - The Bill
LC Paper No. CB(1)222/13-14(02) - Marked-up copy of the Bill prepared by the Legal Service Division

4. The Bills Committee completed scrutiny of clauses 1 to 7 of the Bill.

Follow-up actions required of the Administration

Admin

5. With respect to the Chinese rendition of the English text "...and could not have reasonably known", which appeared as "亦按理不可能知悉" in section 78(b) of the Air Pollution Control Ordinance (Cap. 311) and as "而按理亦不能知悉" in the proposed sections 78(1)(b) and 81(1), the Administration was requested to take the following actions –

- (a) to review whether it was appropriate to amend the rendition as such and to provide the relevant considerations; and

Action

- (b) to consider whether the words "而按理亦不能知悉" were required to be put in brackets given that no brackets were found in its corresponding English text.

Date of next meeting

6. Members agreed to hold the next meeting on 23 December 2013 to meet with the Administration.

III Any other business

7. There being no other business, the meeting ended at 4:25 pm.

Council Business Division 1
Legislative Council Secretariat
29 January 2014

**Proceedings of the fourth meeting of
the Bills Committee on Air Pollution Control (Amendment) (No. 2) Bill 2013
on Tuesday, 17 December 2013, at 2:30 pm
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Confirmation of minutes of meeting			
000254 – 000439	Chairman	<ul style="list-style-type: none"> - Confirmation of minutes of the meeting on 5 November 2013 - 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			
000440 – 002019	Chairman Administration	<ul style="list-style-type: none"> - Briefing by the Administration on its response to issues raised at the meetings on 19 November and 2 December 2013 (LC Papers Nos. CB(1)402/13-14(02) and CB(1)529/13-14(02)), and its response to a submission from the Association for the Rights of Industrial Accident Victims ("ARIAV") (LC Paper No. CB(1)529/13-14(04)) 	
002020 – 003159	Chairman Mr TANG Ka-piu Administration	<ul style="list-style-type: none"> - Discussion on the circumstance where a worker, who had used machinery/products with asbestos, contracted a disease caused by inhalation of asbestos fibres but the machinery/products concerned were not included in the relevant list published by the Administration - Discussion on the proper disposal and labelling of proprietary Chinese medicines ("pCm") with asbestos - Mr TANG's suggestion of publishing information on all pCm which contained asbestos and the Administration's undertaking to reflect Mr TANG's suggestion to the Department of Health 	
003200 – 004441	Chairman Dr Fernando CHEUNG Administration	<ul style="list-style-type: none"> - Discussion on the concerns raised by ARIAV in its submission (LC Paper No. CB(1)464/13-14(02)) - Dr CHEUNG's agreement with ARIAV that owners of buildings which were built in 1986 or before should be mandated to prove that the 	

Time marker	Speaker	Subject(s)	Action required
		<p>buildings concerned were asbestos-free if they did not engage asbestos professionals to conduct the abatement works</p> <ul style="list-style-type: none"> - The Administration responded that – <ul style="list-style-type: none"> (a) the existing legislation had already provided that owners of buildings which consisted of asbestos containing material ("ACM") should engage qualified asbestos professionals to carry out asbestos abatement works; and (b) the Administration would strengthen the education of construction workers on the potential health risks associated with asbestos, and identification and safe handling of asbestos materials in buildings - The Chairman's enquiry on the penalty of not complying with the legislative requirements of carrying out asbestos abatement works 	
004442 – 005447	Chairman Mr POON Siu-ping Administration	<ul style="list-style-type: none"> - Mr POON's concern over the disposal of pCM with asbestos by individual members of the public; and the Administration's response that the existing legislation had provided for a mechanism of disposing asbestos and ACM - Mr POON urged that the Administration should, in consultation with Hong Kong Construction Association, publish a list of machinery/products which consisted of ACM as early as possible for reference of construction workers - In response to the Chairman's earlier enquiry, the Administration advised that according to section 77(2) of the Air Pollution Control Ordinance (Cap. 311) ("APCO"), a person who implemented or caused the implementation of an asbestos management plan or carried out or caused the carrying out of work involving the use or handling of ACM contrary to section 75 committed an offence. Section 77(5) further provided that a person who was convicted of the offence was liable to a fine of \$200,000 and to imprisonment for 6 months and to a further fine of \$20,000 for each day 	

Time marker	Speaker	Subject(s)	Action required
005448 – 005658	Chairman Administration Dr LEUNG Ka-lau	<ul style="list-style-type: none"> - The Administration advised that it would, in consultation with the Department of Health, provide a written response to the issues raised by the Hong Kong Workers' Health Centre in its further submission (LC Paper No. CB(1)529/13-14(03)) - Dr LEUNG requested that representative(s) of the Department of Health should attend the next meeting to provide response to the issues raised in the submission 	
005659 – 005729	Chairman	- Date of next meeting	
<i>Clause-by-clause examination of the Bill</i>			
005730 – 005850	Chairman Administration	<u>Long title</u>	
005851 – 010011	Chairman Administration	<u>Clauses 1 and 2</u>	
010012 – 010232	Chairman Administration	<u>Clause 3</u> <ul style="list-style-type: none"> - The Chairman's enquiry on the accuracy of testing ACM and the Administration's advice that there was a differential of about plus/minus 1% but the percentage was subject to change with technology advancement in testing of ACM 	
010233 – 010630	Chairman Administration	<u>Clause 4</u>	
010631 – 012849	Chairman Administration Dr Kenneth CHAN Ms Cyd HO Assistant Legal Adviser 10 ("ALA")	<u>Clause 5</u> <ul style="list-style-type: none"> - Discussion on whether the words "而按理亦不能知悉" were required to be put in brackets or not given that no brackets were found in its corresponding English text and request for the Administration to provide written response in this regard - In response to Dr CHAN's enquiry, the Administration explained the reasons for the deletion of the words "asbestos or" in the 	Administration to provide information/response (paragraph 5 of minutes)

Time marker	Speaker	Subject(s)	Action required
		<p>revised section 78</p> <ul style="list-style-type: none"> - In response to the Chairman's enquiry, the Administration explained that the purpose of adding the new section 78(2) was to reflect the policy intent and make it explicit that merely an evidential burden was imposed on the defendant - Discussion on whether it was appropriate to amend the Chinese rendition of the English text "...and could not have reasonably known", which appeared as "亦按理不可能知悉" in section 78(b) of the APCO and as "而按理亦不能知悉" in the proposed sections 78(1)(b) and 81(1); and request for the Administration to provide written response in this regard 	<p>Administration to provide information/response (paragraph 5 of minutes)</p>
012850 – 013457	Chairman Dr Fernando CHEUNG Administration	<ul style="list-style-type: none"> - Discussion on the need to strengthen the educational and publicity efforts to raise the awareness of ethnic minorities on safe handling of asbestos materials in buildings - Dr CHEUNG's suggestion that the Administration should establish a platform for registration of buildings with asbestos as suggested by the Hong Kong Workers' Health Centre; and the Administration's response that it would be difficult to establish an exhaustive list of such buildings 	
013458 – 013933	Chairman Administration Ms Cyd HO	<p><u>Clauses 5 and 6</u></p> <ul style="list-style-type: none"> - In response to Ms HO's enquiry, the Administration explained the rationale of the proposed section 78(2) and its application 	
013934 – 015207	Chairman Administration Ir Dr LO Wai-kwok	<p><u>Clause 7</u></p> <ul style="list-style-type: none"> - In response to Ir Dr LO's enquiry, the Administration advised that the Bill was not applicable to goods in transit - In response to the Chairman's enquiry, the Administration elaborated the policy intent of the proposed section 80(4) - Discussion on the order of presenting the interpretations of "use" and "supply" in English 	

Time marker	Speaker	Subject(s)	Action required
		and Chinese texts of the proposed section 80(5)	
015208 – 015423	Chairman Administration	<u>Clause 8 (proposed section 81)</u> - Request for the Administration to provide written response on whether the words "而按理亦不能知悉" were required to be put in brackets given that no brackets were found in its corresponding English text	Administration to provide information/ response (paragraph 5 of minutes)
015424 – 015440	Chairman	- Date of next meeting	