

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1029/13-14  
(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 fifth meeting held on  
Monday, 23 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 WU Chi-wai, MH  
Hon Charles Peter MOK  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon POON Siu-ping, BBS, MH  
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
- Members absent** : Dr Hon Kenneth CHAN Ka-lok  
Hon TANG Ka-piu
- Public Officers attending** : **Agenda item I**  
  
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)<sup>2</sup>  
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

Dr Jackie LEUNG Ching-kan  
Acting Assistant Director (Traditional Chinese  
Medicine)  
Department of Health

Mr Robert LAW Kwok-wai  
Senior Pharmacist (Traditional Chinese Medicine)<sup>3</sup>  
Department of Health

**Clerk in attendance :** Ms Sophie LAU  
Chief Council Secretary (1)<sup>2</sup>

**Staff in attendance :** Miss Evelyn LEE  
Assistant Legal Adviser 10

Ms Macy NG  
Senior Council Secretary (1)<sup>2</sup>

Ms Emily LIU  
Legislative Assistant (1)<sup>2</sup>

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Action

- I Meeting with the Administration**  
(LC Paper No. CB(1)597/13-14(01) - List of follow-up actions arising  
from the meeting on 17 December  
2013

Action

- LC Paper No. CB(1)597/13-14(02) - Administration's response to issues raised at the meeting on 17 December 2013
- LC Papers Nos. CB(1)529/13-14(03) and CB(1)597/13-14(03) - Further submission from Hong Kong Workers' Health Centre and the Administration's response)

The Administration briefed members on the papers which set out the Administration's response to the issues raised by members at the meeting on 17 December 2013, and its response to a further submission from the Hong Kong Workers' Health Centre.

2. 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 (Restricted to members)

3. The Bills Committee completed clause-by-clause examination of the Bill.

Follow-up actions required of the Administration

- Admin 4. The Administration was requested to take the following actions –
- (a) 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), to provide relevant examples of "...could not have reasonably..." and their Chinese renditions in other legislation;
- (b) with respect to the Chinese rendition of the English text "..., asbestos containing material that is proprietary Chinese medicine ("pCm")...", which appeared as "...屬中成藥的含石棉物料，..." in the proposed section 82(3), to consider amending the Chinese rendition to avoid any possible ambiguity of whether the section prohibited a person from importing and supplying pCm with asbestos containing material which was to be used to manufacture pCm or something else;

and

- (c) to advise whether the Administration would consider publishing a practice note to specify the considerations which would be taken into account by the Authority in consideration of whether the proposed section 83(1)(a) and (b) had been satisfied, as listed in paragraph 6(e) of the Administration's paper (LC Paper No. CB(1)330/13-14(02)).

Legislative timetable

5. The Bills Committee agreed that the Administration's response in respect of paragraph 4 above should be circulated to members for their consideration of whether a further meeting should be held to discuss the issues therein. If no further views were raised by members, the Bills Committee was deemed to have completed the scrutiny of the Bill.

6. The Bills Committee also agreed that subject to no further views from members, the Administration would resume the Second Reading debate on the Bill at the Council meeting of 22 January 2014. Members also noted that the Chairman would report the deliberations of the Bills Committee to the House Committee at its meeting on 10 January 2014.

*(Post-meeting note: The Administration's response was issued vide LC Paper No. CB(1)636/13-14(01) on 27 December 2013. By the deadline on 31 December 2013, no members had raised further views on the Bill.)*

**II Any other business**

7. There being no other business, the meeting ended at 3:55 pm.

**Proceedings of the fifth meeting of  
the Bills Committee on Air Pollution Control (Amendment) (No. 2) Bill 2013  
on Monday, 23 December 2013, at 2:30 pm  
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Meeting with the Administration</b>			
000047 – 000149	Chairman	<ul style="list-style-type: none"> <li>- Opening remarks</li> <li>- 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")</li> </ul>	
000150 – 000832	Chairman Administration	<ul style="list-style-type: none"> <li>- Briefing by the Administration on its response to issues raised at the meeting on 17 December 2013 (LC Paper No. CB(1)597/13-14(02)), and its response to a submission from the Hong Kong Workers' Health Centre (LC Paper No. CB(1)597/13-14(03))</li> </ul>	
000833 – 001851	Chairman Dr LEUNG Ka-lau Administration	<ul style="list-style-type: none"> <li>- In response to Dr LEUNG's enquiry, the Administration advised that disposal of proprietary Chinese medicines ("pCm"), including those with asbestos, was governed by the Waste Disposal (Chemical Waste) (General) Regulation (Cap 354C) under the Waste Disposal Ordinance (Cap 354). In view of Dr LEUNG's concern over the absence of special procedures for disposing pCm with asbestos, the Administration agreed to study further whether special guidelines would be issued for reference by those who were engaged in the disposal of pCm with asbestos.</li> <li>- Discussion on the expert opinions on whether ingestion of asbestos was carcinogenic or not; the availability of relevant scientific research into the effect of ingestion of pCm with asbestos containing material ("ACM") and the current reporting mechanism set up with international and mainland regulatory authorities in respect of safety information regarding medicines.</li> </ul>	
001852 – 003435	Chairman Ms Cyd HO Administration Assistant Legal Adviser 10 Ir Dr LO Wai-kwok	<ul style="list-style-type: none"> <li>- Discussion on 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)</li> </ul>	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> <li>- Discussion on the application of the proposed section 78 and the liability of a person who did not take the initiative to find out whether the second hand machinery owned by him/her contained asbestos</li> <li>- At the request of Ms HO, the Administration agreed to provide relevant examples of "...could not have reasonably..." and their Chinese renditions in other legislation.</li> </ul>	Administration to provide information/response (paragraph 4 of minutes)
<b>Clause-by-clause examination of the Bill</b>			
003436 – 005743	Chairman Administration Dr LEUNG Ka-lau Ir Dr LO Wai-kwok Ms Cyd HO	<u>Clause 8 (proposed section 82)</u> <ul style="list-style-type: none"> <li>- In response to the Chairman's enquiry, the Administration advised that there was no stipulated requirement on the method of storing goods in transit with asbestos or ACM</li> <li>- Discussion on the Chinese rendition of the English text "..., ACM that is proprietary Chinese medicine...", which appeared as "...屬中成藥的含石棉物料，..." in the proposed section 82(3)</li> <li>- Request for the Administration to consider amending the Chinese rendition to avoid any possible ambiguity of whether the proposed section 82(3) prohibited a person from importing and supplying pCm with ACM which was to be used to manufacture pCm or something else</li> </ul>	Administration to provide information/response (paragraph 4 of minutes)
005744 – 010434	Chairman Administration Ms Cyd HO	<u>Clause 8 (proposed section 83)</u> <ul style="list-style-type: none"> <li>- Request for the Administration to advise whether it would consider publishing a practice note to specify the considerations which would be taken into account by the Authority in consideration of whether the proposed section 83(1)(a) and (b) had been satisfied, as listed in paragraph 6(e) of the Administration's paper (LC Paper No. CB(1)330/13-14(02))</li> </ul>	Administration to provide information/response (paragraph 4 of minutes)
010435 – 011053	Chairman Administration Ms Cyd HO	<u>Clause 8 (proposed section 84)</u> <ul style="list-style-type: none"> <li>- Discussion on the enforcement of the proposed section 84(2)(b) regarding seizure of asbestos or</li> </ul>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		ACM following conviction under section 80	
011054 – 011309	Chairman Administration Mr POON Siu-ping	<u>Clause 9</u>  - In response to Mr POON, the Administration confirmed that whilst section 12(2)(a) of Factories and Industrial Undertakings (Asbestos) Regulation (Cap 59 sub. leg. AD) ("FIUAR") was proposed to be repealed, section 12(2)(b) of the FIUAR would be retained to require the designation of a protective equipment zone for all asbestos works having a higher risk	
011310 – 012028	Chairman Administration	<u>Clauses 10 to 12</u>  - Provisions on the ban on using asbestos in industrial undertakings and the penalties involved were noted and agreed to	
012029 – 012608	Chairman Administration Ms Cyd HO	- Legislative timetable	