

立法會
Legislative Council

LC Paper No. CB(2)1091/13-14

Ref : CB2/H/5/13

House Committee of the Legislative Council

**Minutes of the 18th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 14 March 2014**

Members present:

Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)
Hon Ronny TONG Ka-wah, SC (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, 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, BBS, MH
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
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 Kin-por, BBS, JP
Dr Hon LEUNG Ka-lau
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 LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man

Hon Claudia MO
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 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 Christopher CHEUNG Wah-fung, JP
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

Members absent:

Hon CHAN Kam-lam, SBS, JP
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon CHAN Hak-kan, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon WU Chi-wai, MH
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon KWOK Wai-keung
Hon Dennis KWOK
Dr Hon Fernando CHEUNG Chiu-hung
Hon Tony TSE Wai-chuen

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
Mr Stephen LAM	Acting Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Ms Dora WAI	Principal Council Secretary 1
Ms Emily PANG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Mr Bonny LOO	Assistant Legal Adviser 3
Miss Winnie LO	Assistant Legal Adviser 7
Mr Jove CHAN	Senior Council Secretary (2)2
Miss Josephine SO	Senior Council Secretary (2)6
Miss Jasmine TAM	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 17th meeting held on 28 February 2014
(*LC Paper No. CB(2)1022/13-14*)

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 for the Council meeting of 19 March 2014

(a) Tabling of papers

Report No. 13/13-14 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2)1024/13-14 issued vide LC Paper No. CB(3)468/13-14 dated 12 March 2014)

3. The Chairman said that the Report covered four items of subsidiary legislation, the period for amendment of which would expire at the Council meeting of 19 March 2014. The Chairman further said that as the Administration would move a proposed resolution at the Council meeting to amend the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2014 (L.N. 4), Members would have the opportunity to speak on it.

4. As regards the Air Pollution Control (Marine Light Diesel) Regulation (L.N. 2), the Chairman informed Members that as Ms Cyd HO, Chairman of the Subcommittee on the Regulation, had indicated her intention to speak on the Regulation, he would move a motion in his capacity as Chairman of the House Committee ("HC") to take note of the Report in relation to the Regulation at that Council meeting.

(b) Questions

(LC Paper No. CB(3)463/13-14)

5. The Chairman said that 22 questions (six oral and 16 written) had been scheduled for the meeting.

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

(i) Shipping Legislation (Control of Smoke Emission) (Amendment) Bill 2014

(ii) Marriage (Amendment) Bill 2014

(iii) Dutiable Commodities (Amendment) Bill 2014

6. The Chairman said that HC would consider the above three Bills at its next meeting on 21 March 2014.

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

- (i) **Inland Revenue (Amendment) (No. 3) Bill 2013**
- (ii) **Product Eco-responsibility (Amendment) Bill 2013**

7. The Chairman said that the respective Bills Committees on the above two Bills had reported to HC at the last meeting.

(e) **Government motions**

- (i) **Proposed resolution to be moved by the Secretary for Transport and Housing under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2014**
(Wording of the proposed resolution issued vide LC Paper No. CB(3)460/13-14 dated 11 March 2014)

8. The Chairman said that the Administration would move a proposed resolution at the Council meeting to amend the above Regulation. The Subcommittee on the Regulation had reported to HC at the last meeting.

- (ii) **Proposed resolution to be moved by the Secretary for Financial Services and the Treasury under section 7(1) of the Public Finance Ordinance (Cap. 2)**
(Wording of the proposed resolution issued vide LC Paper No. CB(3)439/13-14 dated 27 February 2014)

9. The Chairman said that at the last HC meeting, Members did not raise objection to the Administration moving the above proposed resolution at the Council meeting.

- (iii) **Two proposed resolutions to be moved by the Secretary for Security under section 4 of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) in relation to the following two orders:**
 - **Mutual Legal Assistance in Criminal Matters (Spain) Order; and**
 - **Mutual Legal Assistance in Criminal Matters (Czech Republic) Order***(Wording of the proposed resolutions issued vide LC Paper No. CB(3)454/13-14 dated 7 March 2014)*

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10. The Chairman said that the Administration had given fresh notices to move two proposed resolutions relating to the above two Orders at the Council meeting. The relevant Subcommittee had reported to HC at the meeting on 21 February 2014.

(iv) **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)436/13-14 dated 26 February 2014)

11. The Chairman said that at the last HC meeting, Members did not raise objection to the Administration moving the above proposed resolution at the Council meeting.

(f) **Members' motions**

(i) **Proposed resolution to be moved by Hon Jeffrey LAM under section 34(4) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to the:**

- **Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulation;**
- **Toys and Children's Products Safety Regulation (Repeal) Regulation; and**
- **Toys and Children's Products Safety (Amendment) Ordinance 2013 (Commencement) Notice**

(Wording of the proposed resolution issued vide LC Paper No. CB(3)459/13-14 dated 10 March 2014)

12. The Chairman said that Mr Jeffrey LAM, Chairman of the Subcommittee on the above three items of subsidiary legislation, would move a proposed resolution at the Council meeting to extend the scrutiny period of the subsidiary legislation to the Council meeting of 9 April 2014.

(ii) **Proposed resolution to be moved by Hon TAM Yiu-chung under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China**

(Wording of the proposed resolution issued vide LC Paper No. CB(3)453/13-14 dated 7 March 2014)

13. Members noted that Mr TAM Yiu-chung, Chairman of the Committee on Rules of Procedure, would move a proposed resolution to amend Rules of Procedure ("RoP") for implementing the arrangements for providing public access to Council documents and records.

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- (iii) **Motion to be moved by Hon Claudia MO under the Legislative Council (Powers and Privileges) Ordinance**
(Wording of the motion issued vide LC Paper No. CB(3)441/13-14 dated 27 February 2014)

14. Members noted that Ms Claudia MO would move the above motion to seek the Council's authorization to appoint a select committee to inquire into the immediate termination of Ms LI Wei-ling's contract by Commercial Radio and related matters.

- (iv) **Motion on "The incident of attack on Mr Kevin LAU Chun-to, the former chief editor of Ming Pao Daily News" to be moved by Hon Andrew LEUNG**
(Wording of motion issued vide LC Paper No. CB(3)449/13-14 dated 5 March 2014)

15. The Chairman said that the above motion would be moved by him in his capacity as Chairman of HC.

- (v) **Motion on "Evaluating the effectiveness of the policy on 'promoting sports in the community, supporting elite sports and developing Hong Kong into a prime destination for hosting major international sports events' and formulating a long-term sports policy" to be moved by Hon MA Fung-kwok**
(Motion which was originally scheduled to be moved at the Council meeting of 19 February 2014)
(Wording of motion issued vide LC Paper No. CB(3)366/13-14 dated 7 February 2014)

- (vi) **Motion on "Encouraging the return of the industrial sector for development to make Hong Kong's industries more diversified" to be moved by Hon CHUNG Kwok-pan**
(Motion which was originally scheduled to be moved at the Council meeting of 19 February 2014)
(Wording of motion issued vide LC Paper No. CB(3)363/13-14 dated 6 February 2014)

16. Members noted that the above two motions were originally scheduled to be moved at the Council meeting of 19 February 2014.

IV. Business for the Council meeting of 26 March 2014

(a) Questions

(LC Paper No. CB(3)462/13-14)

17. The Chairman said that 22 questions (six oral and 16 written) had been scheduled for the meeting.

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

(i) Contracts (Rights of Third Parties) Bill

(ii) Employment (Amendment) Bill 2014

(iii) Pharmacy and Poisons (Amendment) Bill 2014

18. The Chairman said that HC would consider the above three Bills at its meeting on 28 March 2014.

(c) Government motion

19. The Chairman informed Members that the President had just given approval for the Administration to move a proposed resolution under section 5(4) of the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) at the Council meeting of 26 March 2014.

(d) Members' motions

(i) Motion to be moved by Hon TAM Yiu-chung

20. The Chairman said that the subject of the motion to be moved by Mr TAM Yiu-chung was "Properly dealing with problems arising from cross-boundary students".

(ii) Motion on "Safeguarding academic freedom" to be moved by Dr Hon Kenneth CHAN

(Wording of motion issued vide LC Paper No. CB(3)470/13-14 dated 13 March 2014)

21. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above two motions was Wednesday, 19 March 2014.

Report of HC on Consideration of Subsidiary Legislation

22. The Chairman invited Members to note the list tabled at the meeting (LC Paper No. CB(3) 472/13-14), which contained three items of subsidiary legislation the period for amendment of which would expire at the Council meeting of 26 March 2014. He reminded Members to indicate their intention by 5:00 pm on Tuesday, 18 March 2014 should they wish to speak on any of the items of subsidiary legislation.

V. Report of Bills Committees and subcommittees

(a) Report of the Bills Committee on Securities and Futures (Amendment) Bill 2013
(LC Paper No. CB(1)1065/13-14)

23. Mr Christopher CHEUNG, Deputy Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Mr CHEUNG highlighted that the Bills Committee agreed to the Committee stage amendments ("CSAs") proposed by the Administration and supported the resumption of the Second Reading debate on the Bill at the Council meeting of 26 March 2014.

(b) Report of the Bills Committee on Rural Representative Election Legislation (Amendment) Bill 2013
(LC Paper No. CB(2)1026/13-14)

24. Mr IP Kwok-him, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Mr IP informed the meeting that in response to the views of the Bills Committee, the Administration would move a number of CSAs to improve the drafting of certain provisions of the Bill. Furthermore, Mr Albert HO had indicated his intention to propose CSAs to the Bill to change the existing voting system for elections of Kaifong Representatives for Cheung Chau and Peng Chau. Members noted that the Bills Committee raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 26 March 2014.

(c) Report of the Bills Committee on Loans (Amendment) Bill 2014
(LC Paper No. CB(1)1066/13-14)

25. Mr Kenneth LEUNG, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Members noted that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 26 March 2014.

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26. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, to the above three Bills was Monday, 17 March 2014.

(d) Report of the Subcommittee on Proposed Resolution under Section 5(4) of the Motor Vehicles (First Registration Tax) Ordinance

(LC Paper No. CB(1)1078/13-14)

27. On behalf of Dr Fernando CHEUNG, Chairman of the Subcommittee, Mr Frankie YICK briefed Members on the deliberations of the Subcommittee as detailed in its report. Mr YICK said that the Subcommittee raised no objection to the Administration giving fresh notice to move the proposed resolution at the Council meeting of 26 March 2014. Mr YICK added that Dr Fernando CHEUNG had indicated his intention to move an amendment to the proposed resolution to change the proposed expiry date for exempting electric vehicles from the payment of first registration tax.

28. The Chairman reminded Members that the deadline for giving notice of amendments to the proposed resolution, if any, was Wednesday, 19 March 2014.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2)1023/13-14)

29. The Chairman said that as at 13 March 2014, there were five Bills Committees, seven subcommittees under HC and seven subcommittees on policy issues under Panels in action. Three subcommittees on policy issues were on the waiting list.

VII. Any other business

Proposal of Hon Claudia MO to ask an urgent oral question under Rule 24(4) of the Rules of Procedure at the Council meeting of 19 March 2014 relating to the provision of mobile television services by Hong Kong Television Network Limited

(Letter dated 12 March 2014 from Hon Claudia MO (LC Paper No. CB(2)1048/13-14(01)))

30. The Chairman informed Members that Ms Claudia MO wrote to him on Wednesday, 12 March 2014, after the deadline for proposing agenda items for this meeting, requesting to discuss her proposal to ask an

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urgent oral question at the Council meeting of 19 March 2014 relating to the provision of mobile television services ("mobile TV services") by Hong Kong Television Network Limited ("HKTVN"). He explained that according to rule 10 of the House Rules, to assist the President in considering requests for asking urgent questions without the required notice, the Member concerned should, where practicable, first seek the agreement of HC before submitting an urgent question to the Clerk to the Legislative Council ("LegCo"). He had therefore given approval to discuss Ms MO's proposal under "Any other business".

31. Ms Claudia MO queried whether the Government was changing the rules in requiring HKTVN, in its provision of mobile TV services, to comply with the requirements under the Broadcasting Ordinance (Cap. 562) in relation to a domestic free television programme service ("free TV") licence. She pointed out that the Government had indicated more than once that the telecommunications market and the free TV market were two different markets which were regulated by separate ordinances. Furthermore, the Telecommunications Ordinance (Cap. 106) did not impose any restrictions on the transmission standard adopted by a mobile TV service licensee. The Office of the Communications Authority ("OFCA") had also given confusing messages on the transmission standards which could be adopted by HKTVN. The general public had a strong feeling that the Government was using both legal and administrative means to obstruct commercial activities, which would adversely affect Hong Kong's business environment. She considered that the matter clearly involved public interest and warranted the asking of an urgent question.

32. Mrs Regina IP said that according to RoP 24(4), the President might permit an urgent question to be asked if it was of an urgent character and related to a matter of public importance. While she agreed that the licensing requirement for the provision of mobile TV services was a matter of public interest, she did not consider that the matter was of an urgent character. Referring to the remarks made by the Deputy Chairman on a radio programme earlier that morning, Mrs IP said that the matter involved various legal issues and legal proceedings might be instituted. In her view, the matter could not be resolved simply by eliciting a reply from the Administration to an urgent oral question, and it would be more appropriate for the relevant Panel to follow up. She did not support Ms Claudia MO's proposal.

33. Mr IP Kwok-him said that while the matter involved public interest, he did not see the urgency in asking the proposed question at next week's Council meeting. As the threshold for raising an urgent question was not met, Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong did not support the proposal.

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34. The Deputy Chairman pointed out that what he had said on the radio programme was his personal opinion based on his interpretation of the two Ordinances. He did not have any intention of favouring one side over the other, and it was unfair to cite his remarks as reasons to oppose Ms Claudia MO's proposal.

35. Mr Paul TSE questioned whether there was any urgency in resolving the matter, given that Mr Ricky WONG, Chairman of HKTVN, had already openly indicated that his plan of launching mobile TV services from 1 July 2014 would be put on hold indefinitely. He also noted that OFCA and HKTVN had been communicating on the matter since 17 January 2014. It was just that the pace of both parties in handling the matter was accelerated after he raised a question at the meeting of the Panel on Information Technology and Broadcasting on 10 March 2014. He considered that as the "urgency" criterion was not met, the proposal to ask an urgent question was not justified.

36. Mr James TO said that HKTVN announced its plan to launch mobile TV services as from 1 July 2014 after its unsuccessful application for a free TV licence last year. OFCA had, however, used technical issues as grounds to obstruct HKTVN's provision of such services. In his view, given public expectation for the provision of mobile TV services by HKTVN as from 1 July 2014, there was urgency for the Administration to resolve the matter as soon as possible.

37. Ms Claudia MO stressed that it would affect Hong Kong's business environment and impede the development of creative industry in Hong Kong if the Administration did not clarify the matter expeditiously. She reiterated that there was urgency in asking the proposed question as the matter was of great public interest. She further said that she would amend the second part of her proposed question, as she noted that OFCA had already provided an explanation on why, unlike the case of HKTVN, China Mobile Hong Kong Corporation Limited was not required to apply for a free TV licence when it provided mobile TV services.

38. The Chairman put to vote the proposal of Ms Claudia MO to ask an urgent oral question under RoP 24(4) at the Council meeting of 19 March 2014 relating to the provision of mobile TV services by HKTVN. Ms Claudia MO requested a division.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Mr Ronny TONG, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr LEUNG Kwok-hung, Mr Albert

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CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Dr Helena WONG and Mr IP Kin-yuen.
(20 Members)

The following Members voted against the proposal:

Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr WONG Kwok-kin, Mr IP Kwok-him, Mrs Regina IP, Mr Paul TSE, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Dr CHIANG Lai-wan, Mr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Christopher CHUNG.
(31 Members)

39. The Chairman declared that 20 Members voted for the proposal and 31 Members voted against it, and no Member abstained from voting. The Chairman declared that the proposal was negatived.

Proposed visit of LegCo Members to Shanghai

40. The Chairman informed Members the proposal for LegCo Members to visit Shanghai would be placed on the agenda for the next HC meeting on 21 March 2014. Members could give views on the programme and arrangements, which would be relayed to the Chief Executive ("CE")'s Office and the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region.

41. Mr Albert CHAN opined that clarification should be sought on whether the visit was in response to an invitation extended by the Shanghai Municipal People's Government or whether it was arranged by CE.

42. There being no other business, the meeting ended at 3:05 pm.