

**立法會**  
**Legislative Council**

LC Paper No. ESC33/14-15  
(These minutes have been  
seen by the Administration)

Ref : CB1/F/3/2

**Establishment Subcommittee of the Finance Committee**

**Minutes of the 3<sup>rd</sup> meeting**  
**held in Conference Room 3 of Legislative Council Complex**  
**on Wednesday, 10 December 2014, at 8:30 am**

**Members present:**

Hon Kenneth LEUNG (Chairman)  
Hon SIN Chung-kai, SBS, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN  
Hon WONG Ting-kwong, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon WONG Kwok-kin, SBS  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon Claudia MO  
Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin  
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  
Dr Hon Kenneth CHAN Ka-lok  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung

Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon IP Kin-yuen  
Hon Martin LIAO Cheung-kwong, SBS, JP  
Hon POON Siu-ping, BBS, MH  
Hon TANG Ka-piu, JP

**Member attending:**

Dr Hon CHIANG Lai-wai, JP

**Members absent:**

Hon Emily LAU Wai-hing, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon Starry LEE Wai-king, JP  
Hon CHEUNG Kwok-che  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Dennis KWOK  
Dr Hon Helena WONG Pik-wan  
Hon CHUNG Kwok-pan

**Public Officers attending:**

Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)1
Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service (1)
Miss Emma LAU, JP	Judiciary Administrator
Mr Arthur NG, JP	Deputy Judiciary Administrator (Operations)
Ms Doreen KWAN	Assistant Judiciary Administrator (Corporate Services) (Acting)
Dr KO Wing-man, BBS, JP	Secretary for Food and Health
Mr Richard YUEN, JP	Permanent Secretary for Food and Health (Health)
Mr Chris SUN, JP	Head, Healthcare Planning and Development Office, Food and Health Bureau
Mrs Betty FUNG, JP	Permanent Secretary for Home Affairs
Mrs Avia LAI	Deputy Secretary for Home Affairs (3)
Mrs Sorais LEE	Project Manager (Home Affairs Bureau)

Ms Sabrina LAW

Principal Assistant Secretary for Home  
Affairs (West Kowloon Cultural District)

**Clerk in attendance:**

Ms Connie SZETO

Chief Council Secretary (1)4

**Staff in attendance:**

Ms Anita SIT

Assistant Secretary General 1

Mr Jason KONG

Council Secretary (1)4

Ms Alice CHEUNG

Senior Legislative Assistant (1)1

Ms Sharon CHAN

Legislative Assistant (1)4

Miss Yannes HO

Legislative Assistant (1)6

Ms Clara LO

Legislative Assistant (1)8

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Action

1. The Chairman drew members' attention to the information paper ECI(2014-15)9 which set out the latest changes in the directorate establishment approved since 2002. He then reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP"), they should disclose the nature of any direct or indirect pecuniary interests relating to the funding proposals under discussion at the meeting before they spoke on the item. He also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

**EC(2014-15)11**

**Proposed creation of seven permanent judicial posts of three Justice of Appeal of the Court of Appeal of the High Court (JSPS 17), one Judge of the Court of First Instance of the High Court (JSPS 16), one Judge of the District Court (JSPS 13) and two Magistrate (JSPS 7-10); one non-civil service position of Executive Director; and two permanent civil service posts of one Chief Systems Manager (D1) and one Chief Treasury Accountant (D1) to be offset by the deletion of a Senior Treasury Accountant to strengthen the directorate structure of the Judiciary Administration in the Judiciary with immediate effect**

2. At the invitation of the Chairman, Judiciary Administrator said that she had been instructed by the Chief Justice to make the following points on

matters in relation to the appointment of judges and judicial officers:

- (a) It was important to point out that pursuant to Article 92 of the Basic Law ("BL"), judges and other members of the Judiciary of the Hong Kong Special Administrative Region ("HKSAR") shall be chosen on the basis of their judicial and professional qualities.
- (b) In addition, BL 88 provides that judges of the courts of HKSAR shall be appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors. The institution of an independent commission, i.e. the Judicial Officers Recommendation Commission, was a most important safeguard for judicial independence.
- (c) The Chief Justice was strongly of the view that matters in relation to judicial appointments should be handled in strict accordance with BL and the relevant statutory provisions, and must not be politicized in any way. Any politicization of the matters relating to judicial appointments would seriously undermine judicial independence and the public's confidence in an independent Judiciary.

3. The Chairman remarked that at the Subcommittee meeting on 12 November 2014, Mr CHAN Chi-chuen and Mr Albert CHAN respectively submitted one and three proposed motions under paragraph 31A of Establishment Subcommittee Procedure ("ESC Procedure") on the agenda item, which he had ruled directly related to the item. As announced at the close of the above meeting, he would invite Subcommittee members to consider whether the proposed motions should be proceeded forthwith when the item was resumed at this meeting. The wordings of the relevant motions (0001 to 0004) were circulated to members vide LC Paper No. ESC19/14-15 on 4 December 2014.

4. Noting that Mr Albert CHAN was not present at the moment, Mr CHAN Chi-chuen enquired whether he could raise the motions numbered 0002 to 0004 on behalf of Mr CHAN. The Chairman said that as members could move motions under paragraph 31A of ESC Procedure without notice, he would allow Mr CHAN Chi-chuen to submit motions with the same contents as Mr Albert CHAN's motions if Mr CHAN was absent at the time when the meeting was dealing with his motions.

5. The Chairman put to vote the question that the proposed motion numbered 0001 be proceeded forthwith. As requested by Mr CHAN Chi-chuen, the division bell was rung for five minutes before members' voting on the question. The question was voted down by a majority of members.

6. The Chairman then put to vote the questions, one by one, that the proposed motions numbered 0002 to 0004 be proceeded forthwith. As requested by Mr Albert CHAN, the division bell was rung for five minutes before members' voting on individual questions. All questions were voted down by a majority of members.

7. The Chairman then put the item to vote. Members agreed that the Subcommittee should recommend the item to the Finance Committee for approval.

**EC(2014-15)12      Proposed retention of two supernumerary posts of one Administrative Officer Staff Grade B (D3) and one Administrative Officer Staff Grade C (D2) for five years to provide continued directorate support to the Healthcare Planning and Development Office under the Health Branch of the Food and Health Bureau**

8. The Chairman advised that the Administration's proposal was to retain two supernumerary posts of one Administrative Officer Staff Grade B and one Administrative Officer Staff Grade C, designated as Head (Healthcare Planning and Development Office) ("H(HPDO)") and Deputy Head (Healthcare Planning and Development Office) ("DH(HPDO)") respectively, for five years to provide continued directorate support to HPDO under the Health Branch of the Food and Health Bureau.

9. Prof Joseph LEE, Chairman of the Panel on Health Services ("HS Panel"), reported that the Panel was consulted on the proposal at its meeting on 20 October 2014. While Panel members supported retaining the two supernumerary posts to continue with taking forward the various policy initiatives of HPDO, they expressed concern about the proposed five-year extension period. As the future direction of some of the initiatives, such as implementation of the Health Protection Scheme ("HPS"), would be subject to the outcomes of the upcoming public consultation; Panel members considered that the Administration should conduct timely review of the need to retain the two posts in the light of such outcomes. Noting that with the proposed extension, the two supernumerary posts would have been created for a period of eight years, some Panel members were concerned that the Administration might create supernumerary posts with long duration in lieu of creating permanent posts. To address members' concern, the Administration had undertaken to review the need for continued retention of the posts after three years taking into account the work progress of HPDO. In view of the wide range of responsibilities entrusted to HPDO, including the introduction of a

new regulatory regime for Private Healthcare Facilities ("PHFs"), review of healthcare manpower and professional development strategies, and steering of policy initiatives related to mental health, Panel members had urged the Administration to provide sufficient manpower resources at non-directorate level to support the work of HPDO.

The proposed extension period of the two supernumerary posts and workload of HPDO

10. Noting that the Administration had undertaken to review the need for retaining the two supernumerary posts after three years, Dr KWOK Ka-ki, Mr Albert CHAN, Mr WU Chi-wai, Mr CHAN Chi-chuen, Mr Alan LEONG and Mr LEUNG Kwok-hung considered it illogical for the Administration to seek a five-year extension for the posts. They were concerned that given the controversies surrounding HPS, the public might not support its implementation. On the other hand, the timeframes for the other major tasks of HPDO, namely the development of a new regulatory regime for PHFs and review of healthcare manpower planning and professional development, were unclear. As there were uncertainties on the work of HPDO, these members considered it more prudent to extend the two posts for three years at this juncture and conduct a review of the continued need of the posts near the expiry of the period.

11. Secretary for Food and Health ("SFH") responded that the Administration had been gauging stakeholders' views on HPS and anticipated broad-based public support for its implementation. The public consultation on the detailed proposals for implementing HPS would be launched by the end of 2014, and the Administration would fine-tune the proposals taking into account suggestions and views received from the consultation. SFH said that the Administration would continue to support the development of the public healthcare services sector. However, in view of the ageing population, there was a need to strike a balance on the provision of health care services between the public and private sectors in the long run through the implementation of HPS. On the proposed five-year extension for the two supernumerary posts, SFH remarked that the Administration had taken note of members' views, and the undertaking to review the need for retaining the posts after three years was a positive response to the suggestion of HS Panel.

12. Mr Albert CHAN pointed out that supernumerary posts were usually created on a time-limited basis for taking forward special tasks within designated timeframes. On the two supernumerary posts in question, the duration would reach an excessively long period of eight years if the proposed five-year extension was approved. Mr CHAN queried whether the present proposal was at variance with the established practice in creating or extending supernumerary posts. He opined that the Administration must provide

sufficient justifications to convince the Subcommittee on its proposal. Mr Alan LEONG held the same view.

13. SFH responded that healthcare reform was a complex subject involving many controversial issues, and the Administration had been conducting numerous rounds of public consultation on the subject since 1993. As various options for healthcare reform involving mandatory contribution from the public had been opposed in previous consultations, the current term Government concluded that a dual-track healthcare system composing of the public and private sectors, with public healthcare funded predominantly by general revenue, should be pursued. It was envisaged that the various tasks related to the implementation of HPS including, analyzing views and suggestions received from the public consultation, working out the consultation conclusions and refining the proposals, formulating the detailed legislative proposals, scrutinizing the relevant bill, and establishment of the regulatory body concerned, would take three to five years to complete. SFH added that according to his professional assessment and with reference to the experience of overseas jurisdictions, healthcare reform was a controversial subject and its implementation would straddle a long period of time.

14. Dr KWOK Ka-ki was concerned whether the Administration had put in place a mechanism for determining the duration of supernumerary posts. He re-iterated his opposition to retain the two supernumerary posts for five years, and stressed the need for the Administration to adjust the extension period in observing financial discipline. He further requested the Administration to provide supplementary information on the number of staffing proposals submitted in the past five years for the creation or retention of supernumerary posts with duration of three years or longer, and the number of such proposals where the Administration undertook to conduct reviews of the need to retain the posts halfway before lapse of the proposed duration.

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15. Deputy Secretary for the Civil Service (1) ("DS(CS)1") advised that no standard period was set for the creation or extension of supernumerary posts, and the duration for each post would be determined by the operational needs concerned. The responsible bureaux/departments were required to provide justifications for the duration sought for a supernumerary post and the Civil Service Bureau ("CSB") would vet each proposal taking into consideration all relevant factors, such as the duties to be discharged by the post holder, complexities of the tasks involved and the estimated timeframes for completing the tasks. Having regard to the operational needs of HPDO as well as the scope and complexity of the duties of the posts concerned, CSB supported the proposed retention of the two supernumerary posts for five years. SFH re-iterated that the staffing proposal under discussion was made in accordance with established practices and based on operational needs. DS(CS)1 added that the need for continued retention of the two posts would be

subject to the outcome of the review to be conducted after three years.

16. Mr YIU Si-wing remarked that the Administration had already explained to HS Panel at the meeting on 20 October 2014 on the need to retain the two supernumerary posts for five years, and Panel members were supportive of the proposal. He considered it reasonable for the Administration to submit the current proposal for consideration of the Subcommittee, and in doing so, the Administration should not be alleged to have acted improperly.

17. Noting that the responsibilities of HPDO covered four major areas including HPS as set out in paragraphs 6 to 18 of EC(2014-15)12, Mr CHAN Chi-chuen sought information on the estimated workload of HPDO on HPS. SFH responded that HPS-related duties would account for some 40% to 50% of the total workload of HPDO. He added that the task of revamping the regulatory regime for PHFs was equally important and would facilitate implementation of HPS as the latter's objectives included, amongst others, promotion of the use of private healthcare services by the public. It was the Administration's target to launch the public consultation on PHFs in parallel with that of HPS.

18. Mr Albert CHAN and Dr KWOK Ka-ki pointed out that preparatory work for the HPS legislation and establishment of the regulatory body concerned would be subject to outcomes of public consultation on HPS. Hence, in assessing the workload of HPDO and the extension period of the supernumerary posts, the Administration should not assume that HPS would be implemented and that all proposals put forward in the future consultation paper would be accepted by the public. Mr Albert CHAN and Mr LEUNG Kwok-hung were concerned that the two posts might become redundant if the results of the public consultation indicated that the public did not support HPS and that the Administration had to drop the Scheme eventually.

19. SFH remarked that the outcomes of previous public consultations on healthcare reform had pointed to community consensus for introducing a voluntary and government-regulated private health insurance scheme. The public consultation to be launched by the end of 2014 would focus on detailed implementation proposals. The Administration therefore envisaged that there would be public support for implementing HPS and HPDO would take forward the preparatory work. As the tasks of drafting the detailed legislative proposals and setting up the regulatory body were closely associated with the HPS consultation exercise and fine-tuning of the proposals thereafter, to ensure continuity of work, it would be necessary to retain the posts of H(HPDO) and DH(HPDO).

20. Mr CHAN Chi-chuen and Mr WU Chi-wai disagreed that there was a community consensus for introducing a voluntary private health insurance scheme. Mr Albert CHAN was opposed to the implementation of a voluntary private healthcare insurance scheme and opined that such scheme would be tantamount to transfer of benefits to insurance companies. SFH emphasized that participation in HPS by the public would be on a voluntary basis.

21. In response to Mr YIU Si-wing's enquiry about whether there would be direct transfer of staff from HPDO upon winding-up of the office to the future regulatory body on HPS, SFH responded that the work of HPDO and the regulatory body would be different. The Administration would submit proposals for creating new permanent directorate posts for the regulatory body. For the non-directorate staff members of HPDO, they would be redeployed to other bureaux/departments according to the established mechanism. SFH took note of Mr YIU's comment that HPDO should be responsible for working out the transitional arrangements.

22. Mr Albert CHAN and Mr CHAN Chi-chuen were of the view that the existing Permanent Secretary for Food and Health (Health) ("PSFH(H)") should take on the work of HPS. Mr Albert CHAN further suggested that HPDO could take forward the public consultation exercise on HPS, and where necessary, the Administration could submit proposals for creating supernumerary or permanent posts to handle subsequent tasks after the detailed implementation proposals of HPS had been finalized. SFH explained that H(HPDO) and DH(HPDO) provided steer and leadership to HPDO in taking forward the various initiatives, whereas PSFH(H) had been overseeing the work of HPDO. He stressed that in view of the complexity of healthcare reform, and with reference to overseas experience, there was a need to retain the two supernumerary posts for five years. He reiterated that HPDO, which was set up on a time-limited basis, was responsible for the preparatory work for the implementation of HPS, and the Administration would submit proposals at a later stage to create permanent posts for the operation of HPS in the long run.

Proposed motions raised by members in accordance with paragraph 31A of ESC Procedure

23. The Chairman informed members that Dr KWOK Ka-ki and Mr WU Chi-wai had jointly submitted a proposed motion under paragraph 31A of ESC Procedure on the agenda item.

24. At 10:23 am, the Chairman announced that he would extend the meeting for 10 minutes after the appointed end time at 10:30 am. Mr WONG Ting-kwong raised objection to the Chairman's proposal. The Chairman then put to vote the question that the meeting be extended for 15 minutes. A

majority of members voted in favour of the question.

25. The Chairman ruled that the proposed motion submitted by Dr KWOK and Mr WU was directly related to the item. Due to insufficient time allowed at the meeting, the Chairman said that he would invite members to consider whether the proposed motion should be proceeded forthwith at the resumption of the agenda item at the next meeting to be held on 7 January 2015.

26. There being no other business, the meeting ended at 10:35 am.

Council Business Division 1  
Legislative Council Secretariat  
14 January 2015