

**立法會**  
***Legislative Council***

LC Paper No. CB(2)698/15-16

Ref : CB2/H/5/15

**House Committee of the Legislative Council**

**Minutes of the 12th meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 15 January 2016**

**Members present:**

Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)  
Hon MA Fung-kwok, SBS, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon CHAN Kam-lam, SBS, JP  
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, GBS, 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, 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, SBS  
Hon IP Kwok-him, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon Claudia MO  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon James TIEN Pei-chun, GBS, JP

Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon Gary FAN Kwok-wai  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, JP  
Dr Hon Kenneth CHAN Ka-lok  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon KWOK Ka-ki  
Hon Dennis KWOK  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, JP  
Hon Martin LIAO Cheung-kong, SBS, JP  
Hon TANG Ka-piu, JP  
Dr Hon CHIANG Lai-wan, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP  
Hon Tony TSE Wai-chuen, BBS

**Members absent:**

Hon James TO Kun-sun  
Dr Hon LAU Wong-fat, GBM, GBS, JP  
Hon Starry LEE Wai-king, JP  
Hon CHAN Hak-kan, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon WONG Yuk-man  
Hon Frankie YICK Chi-ming, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Yuen-han, SBS, JP  
Hon Kenneth LEUNG  
Hon KWOK Wai-keung  
Hon SIN Chung-kai, SBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon POON Siu-ping, BBS, MH

**Clerk in attendance :**

Miss Flora TAI

Clerk to the House Committee

**Staff in attendance :**

Mr Kenneth CHEN, SBS	Secretary General
Ms Connie FUNG	Legal Adviser
Miss Odelia LEUNG	Deputy Secretary General
Ms Anita SIT	Assistant Secretary General 1
Ms Dora WAI	Assistant Secretary General 3
Mr Matthew LOO	Assistant Secretary General 4
Mr Timothy TSO	Senior Assistant Legal Adviser 1
Mr Stephen LAM	Senior Assistant Legal Adviser 2
Mr Kelvin LEE	Senior Assistant Legal Adviser 3
Ms Amy YU	Principal Council Secretary 1
Ms Hallie CHAN	Head (Public Information)
Ms Alice LEUNG	Chief Council Secretary (2)6
Ms Vanessa CHENG	Assistant Legal Adviser 5
Miss Karen LAI	Senior Council Secretary (2)6
Ms Jasmine TAM	Senior Council Secretary (2)8
Mr Richard WONG	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 11th meeting held on 8 January 2016**  
(*LC Paper No. CB(2)621/15-16*)

The minutes were confirmed.

**II. Matters arising**

**Report by the Chairman on his meeting with the Chief Secretary for Administration**

(*LC Paper No. CB(2)667/15-16(01)*)

The Government's legislative programme

2. The Chairman informed Members that the Chief Secretary for Administration ("CS") had written a letter to him expressing grave concern on the timely processing of a large number of Government bills

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in the current session. CS, in her letter dated 14 January 2016 which had been issued to Members, pointed out that since the current session was the last session of the Fifth Legislative Council ("LegCo"), bills that failed to be passed by LegCo before the prorogation of the Fifth LegCo would automatically lapse and had to be re-introduced into LegCo in the next term. CS hoped Members could uphold the spirit of co-operation between the Executive Authorities and the Legislature and make concerted effort in processing the Government bills before the end of the current LegCo term.

3. Mr Albert CHAN suggested that the Chairman should invite CS to attend a special House Committee ("HC") meeting to exchange views with Members on how to improve the relationship between the Executive Authorities and the Legislature. He added that should CS attend the special HC meeting, he would be willing to discuss the subject in a rational and peaceful manner.

4. Mr LEUNG Kwok-hung opined that CS did not respect LegCo as she often made comments on the views expressed by Members at the meetings of LegCo. He said that CS should strive to introduce measures to improve people's livelihoods and be forgiving and tolerant so as to cultivate a better relationship between the Executive Authorities and the Legislature.

5. Ms Claudia MO considered it inappropriate for CS to write such a letter to the Chairman given that the Executive Authorities and the Legislature had their respective functions and were independent of each other. There was no such need for CS to tell Members how they should perform their duties of monitoring the work of the Government.

6. Mr TANG Ka-piu expressed concern about the consequences if some of the Government bills could not be passed by LegCo by the end of the current term. Citing the Eastern Harbour Crossing Legislation (Amendment) Bill 2015 as an example, he noted that the Build-Operate-Transfer franchise of the Eastern Harbour Crossing would expire on 7 August 2016 and the Amendment Bill sought to amend the Road Tunnels (Government) Ordinance (Cap. 368) and its subsidiary legislation to extend their application to the Eastern Harbour Crossing. He was particularly concerned whether a legal vacuum might arise if the Bill lapsed at the end of the current LegCo term, and requested the Legal Adviser ("LA") to provide information in this respect.

7. Ir Dr LO Wai-kwok said that many Members shared the concern expressed by CS in her letter. Referring to the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment)

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(Amendment) Bill 2015 and the Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015 which were among the 18 Government Bills under LegCo's scrutiny as listed in the letter, he further said that many legislative proposals were significant to the economic and environmental development of Hong Kong and many Bills Committees had made their best efforts to complete scrutiny work in the current session. It would be regrettable if those Bills which had been scrutinized by the Bills Committees could not be dealt with by the Council before its prorogation in July 2016. He added that the scrutiny of the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015 had been completed and the Second Reading debate on the Bill would be resumed soon.

8. Ms Cyd HO said that while she was concerned about the processing of a large number of bills before the end of the current session, she also had grave concern about the Copyright (Amendment) Bill 2014 ("the Copyright Amendment Bill") as it would have great impact on the freedom of expression on the internet. She appealed to Members to support her proposal to move a motion under Rule 55(1)(a) of the Rules of Procedure ("RoP") to commit the Copyright Amendment Bill to a select committee for further study after it had been read the second time in Council. By doing so, those Bills pending the resumption of the Second Reading debate could be dealt with in Council. She also urged the President to consider exercising his power provided under Rule 55(1)(b) of RoP to direct that the Copyright Amendment Bill be committed to a select committee if he was of the opinion that the Bill would specially benefit or otherwise specially affect some particular person or association or corporate body.

9. Dr Fernando CHEUNG said that apart from the 18 Government Bills under LegCo's scrutiny, the Appropriation Bill 2016 would soon be presented to the Council and there might be some other bills which were intended to be introduced into the Council in the remaining few months of the current session. He was concerned about the work progress of the Council and stressed that there would be significant adverse impact on the community if many bills could not be passed by the Council before its prorogation in mid July 2016. Given the great controversy over the Copyright Amendment Bill, he considered that the Administration as well as Members should give serious consideration to supporting Ms Cyd HO's proposal to commit the Bill to a select committee for further study so as not to delay other Council business.

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10. Mr Dennis KWOK said that under the principle of separation of powers, the Legislature did not necessarily have to cooperate with the Executive Authorities. In his view, there were only two ways to resolve the current problem arising from the Copyright Amendment Bill. First, the Administration and copyright owners should reconsider supporting the Committee stage amendments ("CSAs") proposed by some Members belonging to the pro-democracy camp to the Bill. Alternatively, the Administration should consider withdrawing the Bill in accordance with RoP so that other bills which were less controversial could be dealt with as early as possible. He hoped that the Chairman would relay his views to CS in this regard.

11. Mr TAM Yiu-chung opined that Members belonging to the pro-democracy camp should bear the main responsibility for the current backlog of Council business as much time had been wasted at the last few Council meetings owing to the incessant quorum calls requested by some of these Members. He stressed that Members who did not support a bill should express their views during the Second Reading debate on the bill in Council and could vote against the bill if they so wished. He urged Members belonging to the pro-democracy camp to stop filibustering the proceedings on the Copyright Amendment Bill and complete the legislative process of the Bill as early as possible, so as to enable other bills to be processed before the prorogation of the Fifth LegCo.

12. Mr WU Chi-wai said that it was incumbent upon the Executive Authorities to take on a proactive role in upholding its co-operation with the Legislature. The Executive Authorities should consult Members and gauge the public's views on the legislative proposals. Having regard to the Legislature's powers and functions to, among other things, monitor the work of the Government and debate any issue of public interest, he considered that when scrutinizing a bill as contentious as the Copyright Amendment Bill, Members should use various ways to put pressure on the Administration to be more responsive to issues and concerns raised by members of the public.

13. Mr LEE Cheuk-yan considered that the Administration should withdraw the Copyright Amendment Bill or support the CSAs proposed by some Members belonging to the pro-democracy camp and only by doing so could the Council deal with the proceedings on other Bills pending resumption of Second Reading debate. Alternatively, the President should direct that the Bill be committed to a select committee under Rule 55(1)(b) of RoP. Noting that the Appropriation Bill 2016 would be introduced into LegCo on 24 February 2016, he enquired whether the First Reading of the Appropriation Bill 2016 would have to

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be postponed if the Council had to continue dealing with the proceedings on the Copyright Amendment Bill at the Council meeting of 24 February 2016.

14. At the invitation of the Chairman, Secretary General ("SG") advised that subject to the Administration giving notice for presentation of the Appropriation Bill 2016 to the Council on 24 February 2016, its First Reading and Second Reading would be dealt with first irrespective of whether there were other Government bills stood over to that meeting. On the Chairman's enquiry about whether the remaining proceedings on the Appropriation Bill 2016 would be affected should the Council have to continue to deal with the proceedings on the Copyright Amendment Bill at the second and third Budget meetings scheduled for 13 and 14 as well as 20 April 2016 respectively, SG further advised that the President would have regard to the relevant rules of RoP as well as the past practice in determining the order of business on the Agenda of the Council. There was a precedent where the President had, upon the Administration's proposal and taking into account HC's view, determined that the proceedings on two Government bills scheduled for a Council meeting be transacted ahead of those on another Government bill stood over to that meeting.

15. Ms Emily LAU said that the Executive Authorities should take the blame for the deterioration of the relationship between the Executive Authorities and the Legislature in recent years as the former had submitted various legislative proposals to LegCo without having properly addressed various views and concerns raised by Members and members of the public. She urged the Administration to consider the views of the concern groups as well as Members so as to resolve the current problem arising from the Copyright Amendment Bill. Ms LAU added that a good working relationship between the Executive Authorities and the Legislature could only be established by way of dialogue and communication. However, CS had not made good use of her meeting with the Chairman as a communication channel between the two.

16. Mr CHAN Kam-lam stressed that the Bills Committee on the Copyright (Amendment) Bill 2014 ("the Bills Committee") held 24 meetings to scrutinize the Bill and had discussed the Bill in great detail. Sufficient time had been allowed for the public and Members to express their views during the scrutiny of the Bill. He shared the concern expressed by CS on the timely processing of a large number of Government bills before the end of the current session, and expressed his disapproval of the way that Members belonging to the pro-democracy camp had filibustered the Copyright Amendment Bill in Council.

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17. Dr Kenneth CHAN said that during the deliberations of the Bills Committee, Members belonging to the pro-democracy camp had raised various views and concerns and proposed a number of CSAs to the Copyright Amendment Bill which sought to provide better safeguards for internet users. He considered that Members belonging to the pro-democracy camp had been properly discharging their duties and the Administration should consider withdrawing the Bill so as to facilitate smooth working relationship between the Executive Authorities and the Legislature.

18. Mr CHAN Han-pan said that to his understanding, during the deliberations of the Bills Committee, most members of the Bills Committee including some Members belonging to the pro-democracy camp supported the Copyright Amendment Bill. However, Members belonging to the pro-democracy camp changed their stance when the Second Reading debate on the Bill was resumed. He expressed disappointment that Members belonging to the pro-democracy camp resorted to filibuster to obstruct the proceedings on the Bill in Council.

19. Mr CHAN Chi-chuen considered that improvements to the relationship between the Executive Authorities and the Legislature would require a change in attitude on the part of the Executive Authorities towards Members of the pro-democracy camp. The Executive Authorities should explore the most effective means to consult all Members at various stages in the formulation of its policies and legislative proposals. To resolve the current problem, he urged the Administration to withdraw the Copyright Amendment Bill or support the proposal that the Bill be committed to a select committee under Rule 55(1) of RoP. He added that should Members of the pro-establishment camp support the views expressed by CS in her letter, they should attend and stay through the Council meetings to facilitate the completion of the proceedings on the Bill.

20. The Chairman said that he would relay Members' views to CS at his next meeting with her.

### **III. Business arising from previous Council meetings**

**Legal Service Division report on subsidiary legislation gazetted on 8 January 2016 and tabled in Council on 13 January 2016**  
(LC Paper No. LS26/15-16)

21. At the invitation of the Chairman, LA briefed Members on the report prepared by the Legal Service Division on the Employees



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Retraining Ordinance (Amendment of Schedule 2) Notice 2016 (i.e. L.N. 1) which was gazetted on 8 January 2016 and tabled in Council on 13 January 2016. Members did not raise any question on the Amendment Notice.

22. The Chairman reminded Members that the deadline for amending the Amendment Notice would be the Council meeting of 3 February 2016.

**IV. Further business for the Council meeting of 20 January 2016**

Meeting arrangement for the Council meeting of 20 January 2016

23. The Chairman informed Members that the meeting would start at 11:00 am and be suspended at around 8:00 pm on Wednesday, 20 January 2016. The meeting would resume at 9:00 am and be suspended at around 8:00 pm on Thursday, 21 January 2016. The meeting would resume at 9:00 am and be adjourned at around 1:00 pm on Friday, 22 January 2016, as meetings of HC and the Finance Committee had been scheduled for that afternoon.

**Questions**

(LC Paper No. CB(3)297/15-16)

24. The Chairman informed Members that Mr KWOK Wai-keung had replaced his oral question.

**V. Business for the Council meeting of 27 January 2016**

(a) **Questions**

(LC Paper No. CB(3)298/15-16)

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

(b) **Bill - First Reading and moving of Second Reading**

26. Members noted that the Securities and Futures (Amendment) Bill 2016 would be presented to the Council on 27 January 2016.

(c) **Government motion**

27. The Chairman said that no notice had been received so far.

**(d) Member's Bill - resumption of debate on Second Reading, Committee Stage and Third Reading**

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28. The Chairman informed Members that Dr Priscilla LEUNG had given notice to resume the Second Reading debate on the Kowloon Tong Church of the Chinese Christian and Missionary Alliance Incorporation (Amendment) Bill 2014 at the meeting.

**(e) Members' motions**

29. The Chairman said that the Members' motions which had been scheduled for debate at previous Council meetings would stand over to the following Council meetings, with each Council meeting dealing with two such motions without legislative effect.

**VI. Position on Bills Committees and subcommittees**  
(*LC Paper No. CB(2)622/15-16*)

30. The Chairman said that as at 14 January 2016, there were 16 Bills Committees, seven subcommittees under HC and seven subcommittees on policy issues under Panels in action. One Bills Committee and five subcommittees on policy issues were on the waiting list. Members noted that among the 16 Bills Committees in action, one of them needed to work beyond three months since their commencement.

**VII. Proposed overseas duty visit to Australia by the Panel on Security**  
(*LC Paper No. CB(2)623/15-16*)

31. Mr IP Kwok-him, Chairman of the Panel on Security ("the Panel"), said that the Panel proposed to conduct a duty visit to Australia in March 2016 to study Australia's experience in handling non-refoulement claims made under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") and to better understand the operation of other security related facilities, such as penal institutions, in the country. Mr IP informed Members that Panel members and other Members were invited to join the proposed visit and a total of five Panel members had indicated interest to take part in the visit. The Panel would also invite officials from the relevant policy bureau/government department to join the visit to facilitate Members' understanding of the applicability of Australia's experience to Hong Kong. He referred Members to the Panel's paper for details of the proposed visit.

32. Mr LEUNG Kwok-hung considered that the Panel should not conduct a duty visit to Australia. In his view, the experience of Germany in the handling of non-refoulement claims would be more relevant when compared to that of Australia as Germany, among other countries, received a high number of refugees.

33. Mr Dennis KWOK said that in response to media enquiries at a press conference on the day of the announcement of his Policy Address, the Chief Executive ("CE") said that if necessary, Hong Kong might withdraw from CAT. If that was really the case, he considered that the Panel should visit those countries which were not signatories to CAT, such as North Korea.

34. Echoing Mr Dennis KWOK's views, Dr Kenneth CHAN said that it would be a waste of time for the Panel to conduct a duty visit to study Australia's experience in handling non-refoulement claims as CE had indicated that if necessary, Hong Kong might withdraw from CAT. He cautioned that such act would undermine Hong Kong's commitment in honouring international conventions and upholding human rights.

35. Mr Albert CHAN said that he could not see the reasons for the Panel to conduct a duty visit to Australia for the purpose of studying the country's experience in handling non-refoulement claims. Having regard to CE's aforementioned remarks and pending the Government making clear its stance in this respect, he did not consider it a suitable time for the Panel to conduct the proposed duty visit. He added that the Panel should request the Research Office of the LegCo Secretariat to study the experience of overseas countries on the subject before deciding whether and to which country a duty visit should be conducted.

36. Mr LEE Cheuk-yan said that he did not consider it relevant and appropriate for the Panel to conduct a duty visit to Australia as many other countries, such as Germany, had more experience in the processing and handling of non-refoulement claims.

37. Mr CHAN Kam-lam pointed out that the proposed duty visit had been discussed by the Panel at its meetings and it was the decision made by the Panel to conduct the proposed duty visit. Five Members had already indicated their interest in joining the visit. He considered that permission should be given to the Panel to undertake a duty visit to Australia in accordance with the relevant procedures prescribed in the House Rules.

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38. The Chairman put to vote the proposed duty visit to Australia by the Panel. At the request of Mr Albert CHAN, the Chairman ordered a division.

The following Members voted in favour of the proposal:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr CHAN Kin-por, Mr IP Kwok-him, Mr James TIEN, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Christopher CHUNG.

(19 Members)

The following Members voted against the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr LEUNG Kwok-hung, Mr Albert CHAN, Ms Claudia MO, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Dennis KWOK and Mr IP Kin-yuen.

(15 Members)

The following Members abstained from voting:

Dr LAM Tai-fai and Dr LEUNG Ka-lau.

(2 Members)

39. The Chairman declared that 19 Members voted for and 15 Members voted against the proposed duty visit, and two Members abstained from voting. The Chairman declared that the proposed duty visit was supported.

## **VIII. Any other business**

40. Noting Members' concern about the bomb threat received by the Secretariat on the day before this HC meeting, the Chairman invited SG to brief Members on the incident.

41. SG informed Members that the Secretariat received at around 5:50 pm on the day before this HC meeting an email claiming that a bomb had been planted in a washroom in the Legislative Council Complex ("the Complex"). In accordance with the contingency plan devised in the light of the security advice provided by the Security Bureau, the Secretariat had immediately reported the bomb threat to the police and the security staff of the Secretariat had conducted an initial search of those washrooms

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in the Complex which were accessible to the public before the arrival of the police. Upon arrival, the police did not find any suspicious object after conducting another search of the washrooms in the Complex and left the Complex at around 8:00 pm on that day. The police would continue to investigate the matter.

42. There being no other business, the meeting ended at 3:18 pm.

Council Business Division 2  
Legislative Council Secretariat  
21 January 2016