

立法會
Legislative Council

LC Paper No. CB(2)982/16-17

Ref : CB2/H/5/16

House Committee of the Legislative Council

**Minutes of the 16th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 24 February 2017**

Members present :

Hon Starry LEE Wai-king, SBS, JP (Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, GBS, JP
Hon Tommy CHEUNG Yu-yan, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung
Hon Christopher CHEUNG Wah-fung, SBS, JP

Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon CHAN Chun-ying
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Nathan LAW Kwun-chung
Dr Hon YIU Chung-yim
Dr Hon LAU Siu-lai

Members absent :

Hon Dennis KWOK Wing-hang (Deputy Chairman)
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Dr Hon KWOK Ka-ki
Hon Tanya CHAN

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
Miss Rachel DAI	Assistant Legal Adviser 2
Mr Alvin CHUI	Assistant Legal Adviser 3
Mr Bonny LOO	Assistant Legal Adviser 4
Ms Vanessa CHENG	Assistant Legal Adviser 5
Ms Clara TAM	Assistant Legal Adviser 9
Mr Richard WONG	Senior Council Secretary (2)6
Ms Jasmine TAM	Senior Council Secretary (2)8
Miss Connie AU	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 minutes of meeting

Minutes of 15th meeting held on 10 February 2017

(LC Paper No. CB(2)857/16-17)

The minutes were confirmed.

II. Matters arising

Report by the Chairman on her meeting with the Chief Secretary for Administration

2. The Chairman said that there was nothing special to report.

III. Business arising from previous Council meetings

(a) **Legal Service Division report on subsidiary legislation gazetted on 10 February 2017 and tabled in Council on 15 February 2017**

(LC Paper No. LS33/16-17)

3. At the invitation of the Chairman, Legal Adviser ("LA") briefed Members on the report prepared by the Legal Service Division ("LSD") on the two items of subsidiary legislation (i.e. L.N. 20 and L.N. 21) which were gazetted on 10 February 2017 and tabled in Council on 15 February 2017.

4. Members did not raise any question on the above two items of subsidiary legislation.

5. The Chairman reminded Members that the deadline for amending the two items of subsidiary legislation would be the Council meeting of 1 March 2017.

(b) **Legal Service Division report on subsidiary legislation gazetted on 17 February 2017 and tabled in Council on 22 February 2017**

(LC Paper No. LS34/16-17)

6. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the Air Pollution Control (Vehicle Design Standards) (Emission) (Amendment) Regulation 2017 (L.N. 24) which was gazetted on 17 February 2017 and tabled in Council on 22 February 2017.

7. Mr Frankie YICK considered it necessary to form a subcommittee to study the Regulation in detail. Members agreed. The following Members agreed to join the subcommittee: Mr Frankie YICK, Mr KWOK Wai-keung, Dr Junius HO and Mr SHIU Ka-fai.

8. Members noted that the deadline for amending the Regulation would be the Council meeting of 22 March 2017, or that of 12 April 2017 if extended by a resolution of the Council.

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IV. Legal Service Division report on subsidiary legislation gazetted on 22 February 2017
(*LC Paper No. LS39/16-17*)

9. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the Rating (Exemption) Order 2017 (L.N. 26) which was gazetted on 22 February 2017 and would be tabled in Council on 1 March 2017.

10. Members did not raise any question on the above Order, and noted that the deadline for amending the Order would be the Council meeting of 29 March 2017.

V. Business for the Council meeting of 1 March 2017

Report No. 12/16-17 of the House Committee on Consideration of
Subsidiary Legislation and Other Instruments

11. The Chairman said that the above draft Report, which covered subsidiary legislation the period for amendment of which would expire at the Council meeting of 1 March 2017, had been issued to Members. No Member had indicated intention to speak on the subsidiary legislation.

(a) Questions
(*LC Paper No. CB(3)359/16-17*)

12. 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

13. The Chairman said that the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Bill would be introduced at the meeting and the House Committee ("HC") would consider the Bill at its meeting on 17 March 2017.

(c) Bill - resumption of debate on Second Reading, Committee Stage and Third Reading

14. The Chairman said that at the last HC meeting on 10 February 2017, Members did not raise objection to the resumption of the Second Reading debate on the Fire Services (Amendment) Bill 2016 at the Council meeting of 1 March 2017.

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(d) **Government motions**

(i) **Two proposed resolutions to be moved by the Secretary for Transport and Housing under the following two Ordinances:**

- **Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237); and**
- **Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)**

(LC Paper No. CB(3)350/16-17)

(LC Paper No. LS35/16-17)

15. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the above two proposed resolutions.

16. Mr Frankie YICK considered it necessary to form a subcommittee to study the proposed resolutions in detail. Members agreed. The following Members agreed to join the subcommittee: Mr James TO, Mr Frankie YICK, Mr HUI Chi-fung, Mr LUK Chung-hung and Mr Jeremy TAM.

17. The Chairman informed Members that in line with the established practice and the arrangement agreed with the Administration, the Administration would be requested to withdraw its notices for moving the proposed resolutions so as to allow sufficient time for the subcommittee to scrutinize the proposed resolutions.

(ii) **Three proposed resolutions to be moved by the Secretary for Labour and Welfare under the following three Ordinances:**

- **Employees' Compensation Ordinance (Cap. 282);**
- **Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360); and**
- **Occupational Deafness (Compensation) Ordinance (Cap. 469)**

(LC Paper No. CB(3)325/16-17)

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18. The Chairman said that Members agreed to form a subcommittee to study the above three proposed resolutions at the last HC meeting on 10 February 2017. According to rules 21(b) and 26(f) of the House Rules, a subcommittee should consist of not less than three members. Since only one Member had signified to join the proposed subcommittee by the deadline for signification of membership, the proposed subcommittee had not been formed.

19. The Chairman further said that the Secretary for Labour and Welfare would move the above three proposed resolutions at the meeting.

(e) **Members' motions**

(i) **Motion on "Actively studying the establishment of a middle class commission" to be moved by Hon Tommy CHEUNG**

(LC Paper No. CB(3)336/16-17)

(ii) **Motion on "Reviewing and reorganizing the Government structure" to be moved by Hon Kenneth LEUNG**

(LC Paper No. CB(3)344/16-17)

20. Members noted that debates on the above two Members' motions without legislative effect would be held at the meeting.

VI. Advance information on business for the Council meeting of 22 March 2017

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

21. The Chairman said that the Inland Revenue (Amendment) Bill 2017 would be introduced at the meeting and HC would consider the Bill at its meeting on 24 March 2017.

(b) **Government motion**

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)

(LC Paper No. CB(3)365/16-17)

(LC Paper No. LS38/16-17)

22. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the above proposed resolution.

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23. Members did not raise any question on the proposed resolution, and noted that the Secretary for Financial Services and the Treasury would move the proposed resolution at the meeting.

VII. Reports of Bills Committees and subcommittees

(a) Report of the Subcommittee on Public Bus Franchisees' Schedule of Routes Orders

(LC Paper No. CB(4)594/16-17)

24. Mr Frankie YICK, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Members noted that the Subcommittee raised no objection to the six Schedule of Routes Orders ("the six Orders") and would not propose any amendment to them.

25. The Chairman reminded Members that as the period for amending the six Orders would expire at the Council meeting of 22 March 2017, the deadline for giving notice of amendments, if any, would be Wednesday, 15 March 2017.

(b) Report of the Subcommittee on Proposed Senior Judicial Appointments

(LC Paper No. CB(4)595/16-17)

26. Dr Priscilla LEUNG, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Dr LEUNG informed Members that the Subcommittee supported the proposed appointments of The Honourable Chief Justice Robert FRENCH AC and The Right Honourable Lord REED to the Court of Final Appeal as non-permanent judges from other common law jurisdictions. The Subcommittee also noted that the Administration intended to move a resolution to seek the Council's endorsement of the proposed appointments in accordance with Article 73(7) of the Basic Law at the Council meeting of 29 March 2017.

VIII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2)858/16-17)

27. The Chairman said that as at 23 February 2017, there were five Bills Committees (one of which would need to work beyond three months since its commencement), 10 subcommittees under HC and five subcommittees on policy issues under Panels in action. Five subcommittees on policy issues were on the waiting list.

IX. Proposal of Dr Hon CHENG Chung-tai to seek the House Committee's agreement for asking an urgent oral question at the Council meeting of 1 March 2017 on the salaries and pensions arrangements for the seven police officers being sentenced to imprisonment by the District Court
(*LC Paper No. CB(2)868/16-17(01)*)

28. At the invitation of the Chairman, Dr CHENG Chung-tai said that he had written to the Chairman of the Panel on Security requesting to discuss the issues relating to the salaries and pensions arrangements for the seven police officers being sentenced to imprisonment by the District Court ("the seven police officers concerned"), but his request was not accepted. He hoped that HC would agree to his proposal for asking an urgent oral question at the Council meeting of 1 March 2017 on the salaries and pensions arrangements for the seven police officers concerned. Dr CHENG further said that his proposed question was concerned with the proper use of public money which was a matter of public interest. He queried why the seven police officers concerned had only been interdicted from duty, instead of being suspended, since late 2014 and could continue to receive salary payments during the interdiction period. He considered that the Administration should explain to the public whether the salaries and pensions arrangements for the seven police officers concerned were different from those for other civil servants under similar circumstances.

29. Mr WONG Kwok-kin said that there were established mechanism and procedures for dealing with the salaries and pensions arrangements for civil servants being interdicted or suspended from duty. He considered that there was no urgency in asking the proposed question and did not support Dr CHENG Chung-tai's proposal. He stressed that Members should follow the allocation system for the asking of questions at Council meetings.

30. Dr Elizabeth QUAT said that she objected to Dr CHENG Chung-tai's proposal as she saw no urgency in asking the proposed question. In her view, Dr CHENG, if he so wished, could raise the proposed question in accordance with the allocation system for the asking of questions at Council meetings. She also criticized Dr CHENG for having made use of meetings of the Legislative Council ("LegCo") as a platform to express hostile views against the Hong Kong Police Force ("the Police") time and again.

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31. Mr LEUNG Kwok-hung said that the proposed question was about the salaries and pensions arrangements for the seven police officers concerned and it had nothing to do with being hostile to the Police. He further said that he was gravely concerned about the offensive language used and improper remarks made by some police officers at the mass gathering held at the night of 22 February 2017 to show support for the seven police officers concerned ("the mass gathering"), and that the German Consulate General Hong Kong and the Consulate General of Israel in Hong Kong had issued statements about some improper remarks made at the mass gathering.

32. Mr LAU Kwok-fan and Mr Holden CHOW objected to Dr CHENG Chung-tai's proposal. They considered that there was no urgency in asking the proposed question as an established mechanism was in place under the relevant provisions of the Police Force Ordinance (Cap. 232) for dealing with the salaries and pensions arrangements for the seven police officers concerned.

33. Ms Claudia MO said that she noted that the German Consulate General Hong Kong and the Consulate General of Israel in Hong Kong had respectively issued statements pointing out that the remarks reportedly made by a police officer at the mass gathering comparing the situation of police officers to the persecution of Jews in Nazi Germany were inappropriate. She was worried that the international image of the Police might be affected and that the matter might turn into a diplomatic issue.

34. Dr CHIANG Lai-wan said that she and some other Members had respectively submitted applications for asking urgent oral questions at the Council meeting of 15 February 2017 on issues relating to the fire incident on an MTR train on 10 February 2017. However, the President was not satisfied that their questions were of an urgent character as required under Rule 24(4) of the Rules of Procedure ("RoP") and did not approve any of the applications. As she considered that the proposed question was not of an urgent character and did not relate to a matter of public importance, she objected to Dr CHENG Chung-tai's proposal.

35. Mr LEUNG Yiu-chung said that the proposed question was concerned with whether public money was being used properly and it was a matter of public concern. He considered that the proposed question was of an urgent character as it was necessary to avoid giving a wrong message to the public that even if police officers were convicted of criminal offences, they would still receive salaries.

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36. Mr SHIU Ka-fai considered that there was no need to raise the proposed question as there were established mechanism and procedures for the Police to deal with the salaries and pensions arrangements for the seven police officers concerned. He further said that while it was important to uphold the rule of law, the case concerned should be handled with compassion having regard to the consideration that the family members of these police officers were already under immense pressure.

37. Mr CHAN Han-pan echoed Mr SHIU Ka-fai's view that the salaries and pensions arrangements for the seven police officers concerned could be handled according to the Police's established mechanism and procedures. In his view, the question proposed by Dr CHENG Chung-tai reflected Dr CHENG's prejudice against the Police. He queried why Dr CHENG had not followed up on other issues which were also concerned with the proper use of public money, such as the recovery of Members' remuneration and advanced operating funds from Mr Sixtus LEUNG Chung-hang and Miss YAU Wai-ching who were ruled by the Court of First Instance as having been disqualified from assuming the office of a member of LegCo and not being entitled to act as a member of LegCo since 12 October 2016.

38. Mr CHAN Chi-chuen considered that there was urgency to ask the proposed question as it was an issue of public concern and the Police should explain clearly the mechanism and procedures for dealing with the salaries and pensions arrangements for the seven police officers concerned at the soonest possible time.

39. Dr Priscilla LEUNG said that she did not see any urgency in asking the proposed question as three of the seven police officers concerned had already lodged their appeals and the proposed question could be raised, if Members so wished, after all judicial proceedings had been concluded. She further said that the threshold for raising an urgent question was high and the President would not permit the asking of an urgent question if the criteria under RoP 24(4) could not be met.

40. Mr CHEUNG Kwok-kwan also echoed the query on why Dr CHENG Chung-tai had not raised an urgent oral question on the recovery of Members' remuneration and advanced operating funds from Mr Sixtus LEUNG Chung-hang and Miss YAU Wai-ching. He said that the matter concerning the salaries and pensions arrangements for the seven police officers concerned should be left to be handled by the Police in accordance with the establishment mechanism. He added that as three of the seven police officers concerned had already lodged appeals, the relevant judicial proceedings had not been concluded.

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41. Mr LUK Chung-hung said that he did not see any need or urgency to ask the proposed question as there were established procedures and precedents for the Police to follow in dealing with the salaries and pensions arrangements for the seven police officers concerned. Furthermore, given that these police officers had the right to appeal, he was worried that the asking of the proposed question might prejudice the appeal proceedings and the adjudication of the cases by the court.

42. Mr CHAN Hak-kan said that as the Chairman of the Panel on Security, he had decided earlier not to accede to Dr CHENG Chung-tai's request for discussing the salaries and pensions arrangements for the seven police officers concerned at a Panel meeting for several reasons. First, the seven police officers concerned might appeal against the District Court's ruling and the relevant judicial proceedings were in progress. Second, an established mechanism was in place for dealing with the salaries arrangements for police officers who were interdicted from duty. Third, it had been the established practice of Panels not to discuss individual cases. Mr CHAN added that he considered that there was no urgency in asking the proposed question.

43. Dr CHENG Chung-tai said that he could not subscribe to the view expressed by some Members that the issue of the salaries and pensions arrangements for the seven police officers concerned should not be discussed as they might appeal against the District Court's ruling. He pointed out that Mr Sixtus LEUNG Chung-hang and Miss YAU Wai-chung had also been requested to repay the Members' remuneration and advanced operating funds even though the legal proceedings in relation to the appeal lodged by them had yet to be concluded. He also commented that the improper remarks made at the mass gathering had already given rise to a diplomatic issue.

44. The Chairman put to vote the proposal of Dr CHENG Chung-tai to seek HC's agreement for asking an urgent oral question at the Council meeting of 1 March 2017 on the salaries and pensions arrangements for the seven police officers being sentenced to imprisonment by the District Court. Mr WONG Kwok-kin requested a division.

The following Members voted in favour of the proposal:

Mr LEUNG Yiu-chung, Prof Joseph LEE, Mr LEUNG Kwok-hung, Ms Claudia MO, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Mr SHIU Ka-chun, Dr CHENG Chung-tai, Mr Nathan LAW and Dr YIU Chung-yim.

(11 Members)

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The following Members voted against the proposal:

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Michael TIEN, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Jimmy NG, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Mr LAU Kwok-fan and Mr Kenneth LAU.

(35 Members)

45. The Chairman declared that 11 Members voted for and 35 Members voted against the proposal, and no Member abstained from voting. The Chairman declared that the proposal was not supported.

X. Any other business

Proposal of Hon Claudia MO to seek the House Committee's agreement for asking an urgent oral question at the Council meeting of 1 March 2017 on the Hong Kong-Zhuhai-Macao Bridge Hong Kong Link Road project

(LC Paper No. CB(2)881/16-17(01))

46. At the invitation of the Chairman, Ms Claudia MO said that issues relating to the incident of the collapse of seawalls in the Hong Kong-Zhuhai-Macao Bridge Hong Kong Link Road ("HKLR") project were discussed at length by the Panel on Transport at its meeting held in the morning of the day of this HC meeting. The discussion focused mainly on whether the incident would pose potential risks to people's lives; whether the contractor should be requested to apologize or be penalized for the incident; and how the Administration would ensure the structural safety of HKLR. Given that the Administration had given a preliminary response to the issues raised at the meeting of the Panel on Transport, and taking into account that the Panel on Environmental Affairs would also discuss the subject at its meeting scheduled for the following Monday, 27 February 2017, she decided to withdraw her proposal to seek HC's agreement for her to ask an urgent oral question on the HKLR project at the Council meeting of 1 March 2017. This notwithstanding, she strongly condemned the Administration for covering

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up the incident for two years and the Secretary for Transport and Housing, who must have known about the incident, for his failure to disclose relevant information to the public in the first place.

47. Upon Ms Claudia MO's confirmation of withdrawal of her proposal, the Chairman concluded that it was not necessary for HC to discuss this item.

48. There being no other business, the meeting ended at 3:15 pm.

Council Business Division 2
Legislative Council Secretariat
15 March 2017