

立法會  
*Legislative Council*

LC Paper No. CB(2)1742/16-17

Ref : CB2/H/5/16

**House Committee of the Legislative Council**

**Minutes of the 28th meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 23 June 2017**

**Members present :**

Hon Starry LEE Wai-king, SBS, JP (Chairman)  
Hon LEUNG Yiu-chung  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Tommy CHEUNG Yu-yan, GBS, 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 Mrs Regina IP LAU Suk-ye, GBS, 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  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
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 Alvin YEUNG  
Hon Andrew WAN Siu-kin  
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 Wilson OR Chong-shing, MH  
Hon YUNG Hoi-yan  
Dr Hon Pierre CHAN  
Hon CHAN Chun-ying  
Hon Tanya CHAN  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
Hon LUK Chung-hung  
Hon LAU Kwok-fan, MH  
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 James TO Kun-sun  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon CHUNG Kwok-pan  
Hon CHU Hoi-dick  
Hon SHIU Ka-chun  
Hon Kenneth LAU Ip-keung, MH, JP

**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 Joyce CHAN	Assistant Legal Adviser 1
Miss Rachel DAI	Assistant Legal Adviser 2
Mr Bonny LOO	Assistant Legal Adviser 4
Miss Winnie LO	Assistant Legal Adviser 7
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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Action

**I. Confirmation of minutes of meeting**

**Minutes of 27th meeting held on 16 June 2017**

*(LC Paper No. CB(2)1686/16-17)*

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 reports on bills referred to the House Committee in accordance with Rule 54(4)**

(i) **Dutiable Commodities (Amendment) Bill 2017**  
(*LC Paper No. LS81/16-17*)

3. At the invitation of the Chairman, Legal Adviser ("LA") briefed Members on the report prepared by the Legal Service Division ("LSD") on the Bill.

4. Mr SHIU Ka-fai considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. Mr SHIU Ka-fai agreed to join the proposed Bills Committee.

(ii) **Private Healthcare Facilities Bill**  
(*LC Paper No. LS82/16-17*)

5. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the Bill.

6. Mr SHIU Ka-fai and Dr Pierre CHAN considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. Mr SHIU Ka-fai and Dr Pierre CHAN agreed to join the proposed Bills Committee.

(b) **Legal Service Division report on subsidiary legislation gazetted on 16 June 2017 and tabled in Council on 21 June 2017**  
(*LC Paper No. LS83/16-17*)

7. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on four items of subsidiary legislation (i.e. L.N. 121 to L.N. 124) which were gazetted on 16 June 2017 and tabled in Council on 21 June 2017.

8. Ms Tanya CHAN considered it necessary to form a subcommittee to study the Rules of the High Court (Amendment) Rules 2017 (L.N. 122) in detail. Members agreed. Mr Holden CHOW and Ms Tanya CHAN agreed to join the proposed subcommittee.

9. Members did not raise any question on the remaining three items of subsidiary legislation (i.e. L.N. 121, L.N. 123 and L.N. 124).

10. The Chairman reminded Members that the deadline for amending the above four items of subsidiary legislation would be the second Council meeting in the next session, or the first Council meeting held not earlier than the 21st day after the second Council meeting in the next session if extended by a resolution of the Council.

#### **IV. Further business for the Council meeting of 28 June 2017**

11. The Chairman said that the unfinished business on the Agenda of the Council meeting of 21 June 2017 would stand over until the Council meeting of 28 June 2017.

##### **(a) Tabling of papers**

**Report No. 22/16-17 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments**  
(*LC Paper No. CB(2)1688/16-17*)

12. The Chairman said that the Report covered three items of subsidiary legislation and the period for amending them would expire at the Council meeting of 28 June 2017. No Member had indicated intention to speak on any of these items of subsidiary legislation.

##### **(b) Questions**

(*LC Paper No. CB(3)709/16-17*)

13. The Chairman informed Members that Mr HO Kai-ming had given up his oral question slot which had been allocated to Mr CHAN Han-pan.

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

**(i) Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017**

**(ii) Inland Revenue (Amendment) (No. 4) Bill 2017**

**(iii) Companies (Amendment) Bill 2017**

14. The Chairman said that the Administration gave notice in the early evening of 22 June 2017 that the above three Bills would be introduced at the meeting. The House Committee ("HC") would consider these three Bills at its meeting on 7 July 2017 so as to allow sufficient time for LSD to prepare its reports on these Bills.

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

15. The Chairman said that at the HC meeting held on 16 June 2017, Members did not raise objection to the resumption of the Second Reading debate on the Road Traffic (Amendment) Bill 2017 at the Council meeting of 28 June 2017.

V. **The Chief Executive's Question and Answer Session on 5 July 2017**

16. The Chairman informed Members that the Chief Executive's Question and Answer Session would be held from 9:00 am to 10:30 am, and the fifth-term Chief Executive would attend the meeting.

VI. **Business for the Council meeting of 5 July 2017**

(a) **Questions**

*(LC Paper No. CB(3)710/16-17)*

17. 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**

18. The Chairman said that no notice had been received yet.

(c) **Government motion**

**Proposed resolution to be moved by the Secretary for the Environment under section 44 of the Product Eco-responsibility Ordinance (Cap. 603) and section 35 of the Interpretation and General Clauses Ordinance (Cap. 1)**  
*(LC Paper No. CB(3)718/16-17)*

19. Members noted that the Secretary for the Environment would move the above proposed resolution at the meeting.

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

20. The Chairman said that at the last HC meeting held on 16 June 2017, Members did not raise objection to the resumption of the Second Reading debate on the Bank of Communications (Hong Kong) Limited (Merger) Bill at the Council meeting of 5 July 2017.

(e) **Members' motions**

21. The Chairman said that since the Council could not deal with the two Members' motions without legislative effect at its meeting of 21 June 2017, Members' motions without legislative effect which had been scheduled for debate at previous Council meetings would stand over until the following Council meetings, including the two motions originally scheduled to be dealt with at the Council meeting of 5 July 2017, i.e. the motion on "Establishing a comprehensive 're-industrialization' policy regime" to be moved by Mr Jimmy NG and the motion on "Conducting a comprehensive review of labour legislation to improve labour rights and interests" to be moved by Mr HO Kai-ming. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to these two motions would be Tuesday, 27 June 2017.

**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)728/16-17), which contained three items of subsidiary legislation the period for amendment of which would expire at the Council meeting of 5 July 2017. She reminded Members to indicate their intention by 5:00 pm on Tuesday, 27 June 2017, should they wish to speak on any of these items of subsidiary legislation.

**VII. Reports of Bills Committees and subcommittees**

(a) **Report of the Bills Committee on Stamp Duty (Amendment) Bill 2017 and Stamp Duty (Amendment) (No. 2) Bill 2017**  
(LC Paper No. CB(1)1174/16-17)

23. Mr WONG Ting-kwong, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee in relation to the Stamp Duty (Amendment) Bill 2017 as detailed in its report. Mr WONG informed Members that the Bills Committee had no objection to

Action

the Committee stage amendments ("CSAs") proposed by the Administration and would not propose any CSAs to the Bill. The Bills Committee noted that Mr James TO intended to move CSAs to the Bill. Mr WONG further advised that the Bills Committee had no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 12 July 2017.

**(b) Report of the Bills Committee on Apology Bill**

24. Mr Holden CHOW, Chairman of the Bills Committee, made a verbal report on the deliberations of the Bills Committee. Mr CHOW informed Members that the main purpose of the Bill was to promote and encourage the making of apologies with a view to facilitating resolution of disputes by providing for the effect of apologies in civil proceedings. The Bills Committee held six meetings and received views from deputations and individuals at one of these meetings. Both members of the Bills Committee as well as deputations and individuals agreed with the policy objective of the Bill and supported the enactment of a piece of apology legislation.

25. Mr CHOW advised that some members of the Bills Committee were concerned that members of the public might not clearly understand how their rights would be protected and affected if the Bill was passed and enacted as an ordinance. As such, the Bills Committee had requested the Administration to strengthen its effort on education and publicity upon enactment of the Apology Ordinance so as to help the public understand the content and effect of the Ordinance. The Administration had undertaken to conduct extensive public education, including producing information leaflets and organizing public talks, etc., if the Ordinance was enacted.

26. Mr CHOW further advised that in response to the views of the Bills Committee members and the legal adviser to the Bills Committee, the Administration would propose two CSAs to the Bill. The first CSA was to amend the Schedule to the Bill to exclude specifically Legislative Council ("LegCo") proceedings from the application of the Bill. In LSD's view, the proposed CSA, if passed, would have the effect of excluding proceedings of LegCo and its various committees, panels and subcommittees from the application of the Bill so that, subject to the Rules of Procedure ("RoP"), Members would continue to be able to refer to a person's apology, and take such apology into account, in making speeches, asking questions, moving and debating motions, and writing reports for the purpose of LegCo proceedings. The Bills Committee had informed all Members regarding the proposed arrangement and received no objection from Members.



Action

27. Mr CHOW further said that the second proposed CSA was related to clause 8(2) of the Bill. He said that the Administration had noted the serious concern of the Bills Committee members regarding the discretion that a decision maker might exercise under clause 8(2) of the Bill to admit a statement of fact contained in an apology as evidence under exceptional circumstances. In order to alleviate members' concern, the Administration would make clear in clause 8(2) that before exercising the discretion to admit a statement of fact as evidence in an exceptional case (for example, where there was no other evidence available for determining an issue), the decision maker must be satisfied that it was just and equitable to do so, having regard to the public interest or the interests of the administration of justice.

28. Members noted that the Bills Committee agreed to the above two CSAs proposed by the Administration. The Bills Committee would not propose any CSAs to the Bill and raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 12 July 2017. The Bills Committee would submit a written report in due course.

29. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, proposed to be moved to the above two Bills would be Monday, 3 July 2017.

**(c) Report of the Subcommittee on Financial Institutions (Resolution) (Protected Arrangements) Regulation and Financial Institutions (Resolution) Ordinance (Commencement) Notice 2017**

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30. Mr CHAN Chun-ying, Chairman of the Subcommittee, made a verbal report on the deliberations of the Subcommittee. Mr CHAN said that the Financial Institutions (Resolution) Ordinance (Commencement) Notice 2017 ("the Commencement Notice") appointed 7 July 2017 as the date on which the provisions of the Financial Institutions (Resolution) Ordinance ("FIRO") would commence (with exception to a few provisions). The Financial Institutions (Resolution) (Protected Arrangements) Regulation ("the Regulation") prescribed requirements to be complied with by a resolution authority ("RA") when exercising certain resolution powers with a view to safeguarding the economic effect of specified financial arrangements. The Subcommittee held two meetings with the Administration to discuss these two items of subsidiary legislation.

Action

31. Mr CHAN informed Members that in the course of the deliberations of the Subcommittee, some members had expressed concern regarding how the Monetary Authority ("MA"), when resolving a failed bank, would ensure continued protection for the transferred deposits under the Deposit Protection Scheme Ordinance (Cap. 581). The Administration had explained that under section 12(1) of the Banking Ordinance (Cap. 155) ("BO"), no business of taking deposits should be carried on in Hong Kong except by an authorized institution ("AI") and it was an offence under section 12(6) of BO if an entity other than an AI took deposits. Therefore, in accordance with the resolution objective of FIRO, MA would not transfer a deposit-taking business to an entity that was not an AI.

32. Mr CHAN advised that Mr James TO had raised concern about the absence of an explicit provision in FIRO to require RAs to transfer "protected deposits" to an entity that was authorized under BO and also a member of the Deposit Protection Scheme. In Mr TO's view, the "transfer of protected deposits" was not the same as "taking of deposits" and hence sections 12(1) and 12(6) of BO might not be applicable. In addition, section 13(1) of BO had stipulated that the Financial Secretary might exempt any person or class of persons from the restriction in section 12(1) and as such, MA could still transfer the deposits to a non-AI through administrative arrangements and the transferred deposits would not be protected under the Deposit Protection Scheme.

33. Mr CHAN further said that in order to protect depositors and address the concern of members of the Subcommittee, the Administration was requested to undertake: (a) not to transfer the deposits to an entity that was not an AI under BO; (b) not to invoke section 13(1) of BO when carrying out resolution; and (c) to amend the relevant legislative provisions in a future FIRO amendment exercise.

34. Mr CHAN further advised that the Administration had confirmed that sections 12(1) and 12(6) of BO were applicable to the "deposit-taking business" and clearly covered deposits transferred by an RA under FIRO. As regards the concern about section 13(1) of BO, the Administration had pointed out that from the perspective of MA as an RA, it was not the policy intention to request the grant of such an exemption. The Administration would, in its future FIRO amendment exercise, identify any statutory amendments which were necessary to reflect the Government's stance with greater statutory certainty.

Action

35. Members noted that in response to members' concern, the Administration had agreed to reaffirm its position and to give an undertaking at the debate on the motion to be moved by the HC Chairman, upon Members' request, under RoP 49E(2) to take note of the Report of HC on Consideration of Subsidiary Legislation and Other Instruments in relation to the Commencement Notice and the Regulation at the Council meeting of 5 July 2017. Members also noted that the Subcommittee had no objection to these two items of subsidiary legislation and would not propose any amendments to them. The Subcommittee would submit a written report in due course.

36. The Chairman reminded Members that as the period for amending the above two items of subsidiary legislation would expire at the Council meeting of 5 July 2017, the deadline for giving notice of amendments, if any, would be Tuesday, 27 June 2017.

**(d) Report of the Subcommittee on Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedule 1) Order 2017**  
*(LC Paper No. CB(1)1175/16-17)*

37. Mr WONG Ting-kwong, 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 Order and would not propose any amendments to it. Members also noted that the Subcommittee supported the Administration giving fresh notice to move the proposed resolution at the Council meeting of 12 July 2017.

38. The Chairman reminded Members that the deadline for giving notice of amendments to the proposed resolution, if any, would be Wednesday, 5 July 2017.

**VIII. Position on Bills Committees and subcommittees**  
*(LC Paper No. CB(2)1687/16-17)*

39. The Chairman said that as at 22 June 2017, there were nine Bills Committees, 13 subcommittees under HC and five subcommittees on policy issues under Panels in action. Eight subcommittees on policy issues were on the waiting list.

**IX. Establishment of the Investigation Committee under Rule 49B(2A) of the Rules of Procedure in respect of the motion to censure Hon Holden CHOW Ho-ding**

*(LC Paper No. CB(1)1176/16-17)*

40. In response to Ms Claudia MO's enquiries about the membership of the Investigation Committee under RoP 49B(2A) in respect of the motion to censure Hon Holden CHOW Ho-ding ("the said IC"), the Chairman explained that under RoP 73A, Ms MO, as the mover of the motion to censure Mr Holden CHOW, and the three Members jointly signing the motion (i.e. Mr CHAN Chi-chuen, Mr CHU Hoi-dick and Mr Nathan LAW) should not be appointed to the said IC. The Chairman referred Ms MO to paragraph 3 of the paper for such details on the relevant rule in RoP.

41. Members endorsed the following proposals relating to the said IC which were set out in paragraph 5 of the paper:

- (a) a subcommittee need not be formed to undertake the preparatory work for the establishment of the said IC;
- (b) the proposed election procedure set out in Appendix II to the paper be adopted for the election of Members for appointment to the said IC, which was the same as that endorsed by HC at its meeting on 6 January 2017 in respect of the establishment of another IC; and
- (c) the election of Members for appointment to the said IC be held at the HC meeting on 7 July 2017.

42. Members also noted that in accordance with paragraph 2 of the approved election procedure, the Secretariat would invite nominations by issuing a circular and a nomination form to all Members at least seven clear days before the election date (i.e. 7 July 2017).

**X. Any other business**

**Proposal of Dr Hon CHIANG Lai-wan to seek the House Committee's agreement for asking an urgent oral question at the Council meeting of 28 June 2017 on the collapse of the balcony of a tenement building in Hung Hom**

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*(LC Paper No. CB(2)1708/16-17(01))*

43. At the invitation of the Chairman, Dr CHIANG Lai-wan said that the collapse of the balcony of a tenement building in Hung Hom which occurred in the early hours of 21 June 2017 had aroused great public concern. Even though no casualty was resulted this time, if the balcony had collapsed in daytime, serious casualties would likely be resulted. Dr CHIANG pointed out that according to an article posted on 22 November 2015 in the blog of the former Secretary for Development, Mr Paul CHAN, there were about 6 000 buildings aged 50 years or above, among which about half of them (i.e. 2 590 buildings) whose conditions were identified as "varied" or "poor". As Hong Kong had entered into the rainy season and the dilapidated old buildings would pose an even greater potential risk to the public during the rainy season, she considered it necessary to ask the proposed urgent oral question ("the proposed question") at the Council meeting of 28 June 2017.

44. Concurring that the proposed question was of an urgent character, Mr LEUNG Kwok-hung said that he did not object to Dr CHIANG Lai-wan's proposal to ask an urgent oral question at the Council meeting of 28 June 2017. However, he added that he was not sure about what follow-up actions Dr CHIANG could take even if she was permitted to ask the proposed question at the Council meeting of 28 June 2017.

45. Pointing out that the proposed question related to a matter of public safety, both Dr LAU Siu-lai and Ms Claudia MO expressed support for Dr CHIANG Lai-wan's proposal. Dr LAU considered it necessary for the Administration to provide further information on the follow-up actions to be taken for the assessment of the potential risks posed by dilapidated old buildings in various districts. Ms MO was of the view that the potential risks affected not only people living in dilapidated old buildings, but also pedestrians on the streets.

Action

46. Mr Andrew WAN said that Members of the Democratic Party supported Dr CHIANG Lai-wan's proposal. He further said that prior to the collapse of the balcony of the tenement building in Hung Hom, the Buildings Department had reportedly received complaints about the conditions of that building and had taken follow-up actions on them. He therefore queried whether the Buildings Department had properly carried out its duties. Given the potential risks posed by the dilapidated old buildings, Mr WAN considered that Dr CHIANG's proposed question was of an urgent character.

47. Dr Priscilla LEUNG expressed support for Dr CHIANG Lai-wan's proposal. In her view, the President should give permission to Members to ask urgent oral questions at the Council meetings if the questions related to people's livelihood issues which were of public importance, as in the case of Dr CHIANG's proposal.

48. Dr CHIANG Lai-wan said that she noted that all Members who had spoken on her proposal expressed support for it, adding that her proposed question was of an urgent character indeed. She hoped that the Chairman would relay Members' views to the President for his consideration, and that the President would give permission for her to ask the proposed question at the Council meeting of 28 June 2017.

49. The Chairman said that she noticed that no Members raised objection to Dr CHIANG Lai-wan's proposal. She and the Secretariat would relay Members' views to the President for his consideration. The Chairman added that the President would decide whether the proposed question would be permitted to be asked at the Council meeting of 28 June 2017 in accordance with RoP.

50. There being no other business, the meeting ended at 3:09 pm.