

立法會
Legislative Council

LC Paper No. CB(2)1586/17-18
(These minutes have been
seen by the Administration)

Ref : CB2/BC/1/17

**Bills Committee on
Human Organ Transplant (Amendment) Bill 2018**

**Minutes of the first meeting
held on Friday, 25 May 2018, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Dr Hon Pierre CHAN (Chairman)
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon CHAN Chi-chuen
Dr Hon KWOK Ka-ki
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, BBS, JP
Dr Hon CHENG Chung-tai

Member attending : Hon CHU Hoi-dick

Member absent : Hon CHAN Han-pan, JP

Public Officers attending : Item II

Miss Amy YUEN
Deputy Secretary for Food and Health
(Health) 2
Food and Health Bureau

Dr Sammy NG
Principal Medical and Health Officer (3)
Department of Health

Dr Ian CHEUNG
Chief Manager (Cluster Performance)
Hospital Authority

Dr Frank CHAN
Senior Manager (Transformation Projects)
Hospital Authority

Prof Philip LI
Chairman, Central Renal Committee
Hospital Authority

Mr Jonathan LUK
Senior Government Counsel (Acting)
Department of Justice

Mr Salvador TSANG
Government Counsel
Department of Justice

Clerk in attendance : Mr Colin CHUI
Chief Council Secretary (2) 4

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Ms Catherina YU
Senior Council Secretary (2) 4

Mr Roger CHUNG
Council Secretary (2) 4

Miss Meisy KWOK
Legislative Assistant (2) 6

Miss LEE Wai-yan
Clerical Assistant (2) 6

Action

I. Election of Chairman

Election of Chairman

Mr CHAN Chi-chuen, member who had the highest precedence in Council among members of the Bills Committee present, presided over the election of the Chairman. He invited nominations for the chairmanship of the Bills Committee.

2. Dr Pierre CHAN was nominated by Dr Elizabeth QUAT and the nomination was seconded by Dr CHENG Chung-tai. Dr Pierre CHAN accepted the nomination.

3. There being no other nominations, Dr Pierre CHAN was declared Chairman of the Bills Committee.

4. Members agreed that it was not necessary to elect a Deputy Chairman.

II. Meeting with the Administration

[File Ref.: FH CR 1/3231/98; LC Paper Nos. CB(3)540/17-18, LS56/17-18, CB(2)1462/17-18(01) and (02)]

5. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Admin 6. The Bills Committee requested the Administration/the Hospital Authority ("HA") to provide the following information before the next meeting:

- (a) the number of applications for organ transplants which had been approved/rejected by the Human Organ Transplant Board;
- (b) the number of liver and kidney transplants which were carried out by HA and private hospitals respectively in the recent five years;
- (c) the number of doctors who were interested in becoming organ transplant surgeons and had been approached by HA;
- (d) the manpower provision target and manpower training and development plans for organ transplant;
- (e) the distribution of organ transplant surgeons in organ transplant centres of HA; and

- (f) the findings of the survey conducted by the Administration on the "opt-out" system for organ donation (i.e. the deceased was presumed to have agreed to organ donation unless he/she had indicated any preference of not donating his/her organs before death) in Hong Kong.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(2)1548/17-18(02) on 7 June 2018.)

III. Any other business

7. There being no other business, the meeting ended at 12:59 pm.

Council Business Division 2
Legislative Council Secretariat
12 June 2018

**Proceedings of the first meeting of the
Bills Committee on Human Organ Transplant (Amendment) Bill 2018
on Friday, 25 May 2018, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Election of Chairman</i>			
000431-000552	Mr CHAN Chi-chuen Dr Helena WONG Dr Elizabeth QUAT Dr Pierre CHAN Dr CHENG Chung-tai	Nominations for the chairmanship of the Bills Committee. Election of Chairman	
<i>Agenda item II – Meeting with the Administration</i>			
000553-001211	Chairman Administration	Briefing by the Administration on the Human Organ Transplant (Amendment) Bill 2018 ("the Bill") [Legislative Council Brief ("LegCo Brief") - File Ref.: FH CR 1/3231/98]	
001212-002426	Chairman Mr CHAN Chi-chuen Administration	<p>Mr CHAN Chi-chuen's enquiry and the Administration's response regarding whether a person committed an offence under the Human Organ Transplant Ordinance (Cap. 465) ("the Ordinance") if he/she participated in any part of commercial dealings in human organs in places outside Hong Kong and the enforcement of the Ordinance under such circumstances. The Administration's explanation of section 4(1)(a), (b) and (c) of the Ordinance.</p> <p>Mr CHAN's enquiry and the Administration's response regarding whether two parties who were acquainted with each other could make paired donation arrangement on their own and whether the Human Organ Transplant Board ("HOTB")'s approval of the aforesaid arrangement was required. The Administration advised that applications for organ transplants between living non-related persons must be submitted to HOTB by medical practitioners and HOTB had not rejected any such applications in the past. The Administration gave a brief account of HOTB's major principles in its examination of applications for organ transplants.</p> <p>Mr CHAN's enquiry and the Administration's response regarding whether a person who did not meet the requirements stipulated in section 5A of the Ordinance would have a lower priority or be more difficult to have organ transplant when compared to those who met the relevant requirements.</p>	

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002427-003446	<p>Chairman Dr Helena WONG Administration Hospital Authority ("HA")</p>	<p>Dr Helena WONG's indication of the Democratic Party's support to the Bill.</p> <p>HA's response to Dr WONG's enquiry that the Bill did not specify the types of organs intended for the paired or pooled donation arrangements. Clinically, the paired or pooled donation arrangements mainly covered donations and transplants of livers and kidneys. More types of organs might be included in the paired or pooled donation arrangements in future when the relevant surgical transplant techniques became more mature.</p> <p>The Administration's response to Dr WONG's enquiry that the donation arrangements made between a donor and an organ recipient would be called off if one of them passed away before the transplant took place. The reason was that if a donor or a recipient passed way, it would be unable to ascertain whether he/she still wished to continue with the arrangements. The Administration advised that either party could withdraw from the arrangements at any time.</p> <p>Dr WONG's enquiry and HA's response regarding the paired or pooled donation arrangements. HA's briefing on the paired or pool donation arrangements in the United Kingdom and the pilot Paired Kidney Donation Programme ("the Programme") to be conducted by HA.</p>	
003447-004317	<p>Chairman Dr CHENG Chung-tai Administration</p>	<p>Dr CHENG Chung-tai's indication of his support to the Bill.</p> <p>Views of Dr CHENG on the policies on organ donation and his concerns about the slow growth in the number of organ donations in Hong Kong. He took the view that the Administration should consider allowing patients and their families to access HA's database and make paired or pooled donation arrangements.</p> <p>The Administration's response to Dr CHENG's enquiry regarding whether a pecuniary advantage provided by an organ recipient to a donor many years after the organ transplant would be regarded as an inducement thereby evading the prohibition against inducement. The Administration's reiteration of HOTB's major considerations in its examination of applications.</p>	
004318-005030	<p>Chairman Administration</p>	<p>The Chairman's indication of his support to the Bill and his remarks on cadaveric organ donations.</p>	

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		<p>The Chairman's enquiry and the Administration's response regarding whether paired or pooled donation arrangements made in accordance with the existing established mechanism would breach any law if amendments were not made to the Ordinance. The Administration advised that to remove the legal ambiguities surrounding paired and pooled donation arrangements, it was necessary to amend the Ordinance so that the fact that consent had been given in consideration of a proposed organ transplant into a person chosen by the donor under the paired or pooled donation arrangement would not in itself constitute an offer of inducement.</p> <p>The Chairman's enquiry and the Administration's response regarding paired or pooled donation arrangements made by private organizations such as patient organizations. The Administration advised that HOTB would adopt the same principles in examining applications for organ transplant between living non-related persons, irrespective of whether they were submitted by HA or private organizations.</p>	
005031-010502	Chairman Mr CHAN Chi-chuen Administration HA	<p>Mr CHAN Chi-chuen's enquiry and the Administration's response regarding whether prior approval of HOTB was required for living non-related persons to register for paired or pooled donation arrangements. The Administration advised that prior approval of HOTB was required unless the requirements under section 5A of the Ordinance had been met.</p> <p>Mr CHAN's enquiry and the Administration's response regarding the definition of marriage under the Ordinance and whether a marriage of same-sex persons and a marriage celebrated or contracted outside Hong Kong were covered by the Ordinance. The Administration explained section 2A(i)(B) of the Human Organ Transplant Regulation (Cap 465A) and advised that the provision did not distinguish same-sex or different-sex marriages.</p> <p>Given that organ donation would not be accepted from a person who had high risk sexual behaviour (including male-to-male sexual activity) 12 months before the donation, Mr CHAN enquired whether such restriction could be removed if that person and the recipient had mutually agreed to make the paired or pooled donation arrangement. HA explained that the restriction did not pinpoint high risk sexual activities between persons of the same sex and</p>	

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		<p>advised the reasons for imposing the restriction. HOTB would consider a host of factors in examining applications. As such, organ donations from persons who had high risk sexual behaviour 12 months before the donation might be considered having regard to individual circumstances.</p> <p>HA's response to Mr CHAN's enquiry that applications for "directed organ donations" should be considered by HOTB.</p>	
010503-012220	<p>Chairman Dr Helena WONG Administration HA</p>	<p>HA's response to Dr Helena WONG's enquiry that organ donors might be non-Hong Kong residents but organ recipients must be Hong Kong permanent residents. The Administration supplemented that the Ordinance did not impose restrictions on the nationalities of organ donors or those of organ recipients.</p> <p>Dr WONG's enquiry and the Administration's response regarding whether private hospitals could make paired or pool donation arrangements and whether HOTB's approval was required for such arrangements.</p> <p>The Administration responded to Dr WONG's enquiry that the Bill did not stipulate the types of hospitals in which organ transplants were to be carried out and reiterated that HOTB would adopt the same principles in examining all applications.</p> <p>Dr WONG's enquiry and the response of HA and the Administration regarding the numbers of liver and kidney transplants carried out in private hospitals and HA hospitals respectively in recent years. The Chairman said that statistics on organ donation and transplant were available at the website of the Department of Health but there was no breakdown to show the numbers of transplants carried out in private hospitals and HA hospitals respectively.</p> <p>Dr WONG's enquiry and HA's response regarding the estimated increase in the number of organ donations after the passage of the Bill and whether there would be sufficient medical practitioners and hospitals to cope with the increase. HA advised that it would keep in view the development of the pooled or paired donation arrangements and provide training for doctors as well as allocate additional resources to hospitals if necessary.</p>	

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		<p>In the light of shortage of medical practitioners for liver transplants, Dr WONG's view that HA and the Administration should draw up manpower plans including recruiting more doctors and re-opening the liver transplant centre in the Prince of Wales Hospital. HA responded that it had taken steps to retain liver transplant surgeons and replenish the supply of such surgeons. It would monitor the manpower situation.</p>	
012221-013502	<p>Chairman Dr CHENG Chung-tai Administration</p>	<p>The Administration's response to Dr CHENG Chung-tai's concern that the Bill might induce some people to collect information about organ donors and sell such information to patients. The Administration advised that under the Ordinance, commercial dealings in human organs intended for transplanting was prohibited. The Administration's explanation of sections 4(1) and 4(3) of the Ordinance.</p> <p>Dr CHENG's concern that there might be a loophole in the Bill if the sale of an organ donor's information took place outside Hong Kong. His view that the Administration should plug such loophole by stepping up prosecution actions and law enforcement. The Administration's reiteration of the objectives of introducing the Bill and the prohibition of commercial dealings in organ transplants under the Ordinance.</p>	
013503-014744	<p>Chairman Dr Helena WONG Administration HA</p>	<p>Dr Helena WONG's enquiry and HA's response regarding the provision of kidney transplant surgeons and the plan for increasing the supply of these surgeons.</p> <p>Dr WONG's enquiry and the Administration's response regarding the publicity programmes launched by the Administration/HA for the paired or pooled donation arrangements.</p> <p>Dr WONG's enquiry and the Administration's response regarding the development of the "opt-out" system for organ donation (i.e. the deceased was presumed to have agreed to organ donation unless he/she had indicated any preference of not donating his/her organs before death) in Hong Kong.</p> <p>The Chairman's view that the Chinese culture was one of the reasons for a relatively small number of organ donations in Hong Kong when compared with some western countries.</p>	

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014745-020757	Chairman Dr KWOK Ka-ki Administration HA	<p>Dr KWOK Ka-ki's indication of his support to the Bill and his view on the "opt-out" system for organ donation in Hong Kong.</p> <p>Response of the Administration and HA to Dr KWOK's enquiry regarding:</p> <ul style="list-style-type: none"> (a) the estimated increase in the number of organ donations after the passage of the Bill; (b) how publicity on organ donation should be strengthened; (c) the manpower provision target and manpower training and development plans for organ transplant; and (d) manpower allocation to organ transplant centres of HA. <p>HA advised that there was a shortage of urologists in HA hospitals due to high turnover. HA had been providing training for doctors to replenish the supply of doctors and had considered recruiting doctors from overseas. HA would also review manpower resources of HA hospitals every year and strengthen its communication with doctors with a view to retaining more doctors in HA hospitals. The Programme would provide useful information for HA's manpower planning and deployment.</p> <p>HA's response to Dr KWOK's view that HA should proactively approach doctors who were interested in becoming organ transplant surgeons and ensure that doctors who had received relevant training (even if they received such training overseas) had an opportunity to carry out organ transplants in Hong Kong. HA's view that more resources should be allocated to coordination of organ donation, organ procurement and organ preservation in order to further promote organ donation.</p> <p>At Dr KWOK's request, HA undertook to provide information on:</p> <ul style="list-style-type: none"> (a) the number of doctors who were interested in becoming organ transplant surgeons and had been approached by HA; (b) the manpower provision target and manpower training and development plans for organ transplant; and 	<p>HA (paragraph 6 of the minutes.)</p>

Time marker	Speaker(s)	Subject(s)	Action required
		<p>(c) the distribution of organ transplant surgeons in organ transplant centres of HA.</p> <p><i>(Extension of the meeting for five minutes beyond the appointed ending time by the Chairman.)</i></p>	
020758-021652	Chairman Dr Elizabeth QUAT Administration	<p>Dr Elizabeth QUAT's indication of support of the Democratic Alliance for the Betterment and Progress of Hong Kong to the Bill and its passage as early as possible.</p> <p>Dr QUAT's view and the Administration's response regarding the allocation of more resources to promote organ donation, the provision of an organ donation coordinator in every HA hospital and the formulation of a comprehensive manpower plan for carrying out organ transplants.</p> <p>Dr QUAT's enquiry and the Administration's response regarding the promotion of organ donation during the territory-wide Hong Kong Identity Card replacement exercise to be conducted later.</p> <p>Dr QUAT's view that the Administration should be more proactive in promoting organ donation.</p> <p>The Chairman's view that the introduction of the Bill had demonstrated the Administration's efforts in promoting organ donations.</p>	
<i>Agenda item III – Any other business</i>			
021653-021834	Chairman Administration HA	<p>The Chairman's remark that the majority of members supported the Bill.</p> <p>In response to the Chairman's invitation of views, members present considered it unnecessary to invite public views on the Bill.</p> <p>At the Chairman's request, the Administration/HA undertook to provide written response before the next meeting on the following:</p> <p>(a) the number of applications for organ transplants which had been approved/rejected by HOTB;</p> <p>(b) the number of liver and kidney transplants which were carried out by HA and private hospitals respectively in the recent five years;</p>	Admin/HA (paragraph 6 of the minutes.)

Time marker	Speaker(s)	Subject(s)	Action required
		<p>(c) the number of doctors who were interested in becoming organ transplant surgeons and had been approached by HA;</p> <p>(d) the manpower provision target and manpower training and development plans for organ transplant;</p> <p>(e) the distribution of organ transplant surgeons in organ transplant centres of HA; and</p> <p>(f) the findings of the survey conducted by the Administration on the "opt-out" system for organ donation in Hong Kong.</p> <p>Date of next meeting</p>	

Council Business Division 2
Legislative Council Secretariat
12 June 2018