

**立法會**  
**Legislative Council**

Ref : CB2/BC/3/18

LC Paper No. CB(2)1966/18-19  
(These minutes have been seen  
by the Administration)

**Bills Committee on National Anthem Bill**

**Minutes of the ninth meeting**  
**held on Thursday, 25 April 2019, from 2:30 pm to 6:30 pm**  
**in Conference Room 2 of the Legislative Council Complex**

**Members present** : Hon CHEUNG Kwok-kwan, JP (Deputy Chairman)  
Hon LEUNG Yiu-chung  
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, GBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Hon CHAN Kin-por, GBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Claudia MO  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, SBS, 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, BBS, JP  
Hon Kenneth LEUNG  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan

Dr Hon CHIANG Lai-wan, SBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
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 Wilson OR Chong-shing, MH  
Hon YUNG Hoi-yan  
Hon CHAN Chun-ying, JP  
Hon HUI Chi-fung  
Hon LUK Chung-hung, JP  
Hon LAU Kwok-fan, MH  
Hon Kenneth LAU Ip-keung, BBS, MH, JP  
Dr Hon CHENG Chung-tai  
Hon KWONG Chun-yu  
Hon Jeremy TAM Man-ho  
Hon Gary FAN Kwok-wai  
Hon AU Nok-hin  
Hon Vincent CHENG Wing-shun, MH  
Hon Tony TSE Wai-chuen, BBS

**Members  
absent** : Hon Martin LIAO Cheung-kong, SBS, JP (Chairman)  
Hon James TO Kun-sun  
Hon Starry LEE Wai-king, SBS, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon LEUNG Che-cheung, SBS, MH, JP  
Hon Dennis KWOK Wing-hang  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon SHIU Ka-chun  
Hon Tanya CHAN  
Hon CHAN Hoi-yan

**Public Officers** : Mr Roy TANG Yun-kwong, JP  
**attending** Permanent Secretary for Constitutional and Mainland Affairs

Ms Cordelia LAM Wai-ki  
Principal Assistant Secretary for Constitutional and Mainland  
Affairs

Ms Jocelyn NG Wai-chung  
Assistant Secretary for Constitutional and Mainland Affairs

Mr Lawrence PENG Si-yun  
Deputy Law Draftsman (Acting)  
Department of Justice

Mr Jonathan LUK King-hang  
Senior Government Counsel  
Department of Justice

**Clerk in** : Ms Joanne MAK  
**attendance** Chief Council Secretary (2) 3

**Staff in** : Mr Kelvin LEE  
**attendance** Senior Assistant Legal Adviser 3

Miss Rachel DAI  
Assistant Legal Adviser 2

Ms Jasmine TAM  
Senior Council Secretary (2) 3

Mr Dennis HO  
Council Secretary (2) 3

Mrs Fanny TSANG  
Legislative Assistant (2) 3

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Action

**I. Meeting with the Administration**

[File Ref.: CMAB E4/1/1, LC Paper Nos. CB(3)307/18-19,  
CB(2)903/18-19(01), CB(2)811/18-19(01) and CB(2)893/18-19(02)]

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

Action

2. The Bills Committee completed discussion of clauses 4 and 5 and Schedule 3 to the Bill at this meeting. The major views and concerns raised by members are set out in paragraphs 3 to 12 below.

*(The Deputy Chairman presided over the meeting in the absence of the Chairman.)*

Discussion

*Occasions set out in Schedule 3 to the Bill*

3. Mr Alvin YEUNG enquired about the definition of "major" with regard to item 8 "A major sporting event held by the Government" in Schedule 3 to the Bill. The Administration replied that a sporting event that was large in scale and significant to the Hong Kong Special Administrative Region should be regarded as a "major sporting event". At present, only the biannual Hong Kong Games were regarded as such a sporting event that was held by the Government.

4. Members noted that most of the occasions set out in Schedule 3 to the Bill were events held by the Government. They were large-scale events bearing great importance to Hong Kong. Additions to or deletions from Schedule 3 would have to be effected by way of negative vetting.

*Oath-taking ceremony of Legislative Council Members*

5. Members noted that Schedule 3 to the Bill included the oath-taking ceremony for taking the Legislative Council ("LegCo") Oath under section 19 of the Oaths and Declarations Ordinance (Cap. 11). Mr CHAN Chi-chuen and Mr WU Chi-wai enquired about the implications in the scenario that the national anthem was not played and sung at the oath-taking ceremony for taking the LegCo Oath. Mr WU further asked whether a LegCo Member-elect would be disqualified if he/she did not sing the national anthem on that occasion. Dr Helena WONG also asked whether a LegCo Member-elect would be subject to any penalties if he/she was absent during the playing and singing of the national anthem at the oath-taking ceremony for taking the LegCo Oath.

6. The Administration explained that under clause 5, playing and singing of the national anthem would form part of the oath-taking ceremonies set out in item 1(a)-(e) of Schedule 3 to the Bill after enactment of the National Anthem Ordinance. If the national anthem was not played and sung at any of these ceremonies, the relevant oath-taking ceremony could be deemed as not yet completed.

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7. The Administration further explained that when the national anthem was played and sung, those who took part in or attended the occasion should follow the etiquette set out in clause 4, i.e. to stand solemnly and deport themselves with dignity, and to not behave in a way disrespectful to the national anthem. Not singing the national anthem on the occasions listed in Schedule 3 did not of itself necessarily amount to insulting the national anthem.

8. The Administration pointed out that LegCo Members were required to declare to uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region of the People's Republic of China when they stood for election in accordance with section 40 of the Legislative Council Ordinance (Cap. 542), and took the oath when assuming office in accordance with section 16(d) and as set out in Schedule 2 to Cap. 11. Under the premise of upholding "one country, two systems" and in conformity with the relevant articles in the Basic Law and the requirements set out in the aforementioned local legislation, LegCo Members should respect the national anthem, a symbol and sign of the country, and take part in the playing and singing of the national anthem at the oath-taking ceremony.

9. The Administration advised that all Members-elect should take the LegCo Oath when assuming office in accordance with the Basic Law, the Interpretation of Article 104 of the Basic Law ("BL 104") by the Standing Committee of the National People's Congress ("NPCSC") and relevant local legislation. The oath administrator would determine if the oath taken by a Member-elect was valid in accordance with law. However, according to relevant court judgments, the court had the ultimate authority to determine if an oath was valid based on the behaviour of individual Member-elect during the oath-taking ceremony, and decide if the Member-elect was qualified for assuming the office. The Administration added that according to the Interpretation of BL 104 by NPCSC, "oath taking must comply with the legal requirements in respect of its form and content. An oath taker must take the oath sincerely and solemnly, and must accurately, completely and solemnly read out the oath prescribed by law".

10. In response to Dr Helena WONG's enquiry, the Administration confirmed that failure to comply with the requirements under clause 5 would not incur criminal penalties for the responsible officers or participants concerned under the Bill.

11. Dr Helena WONG questioned whether it was necessary to amend the relevant legislation to clearly provide that a Member-elect had to attend the playing and singing of the national anthem at the oath-taking ceremony for taking the LegCo Oath and failing that, his/her oath would be invalid. The Administration explained that the Bill only sought to provide the standard,

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etiquette and occasions for the playing and singing of the national anthem, and to impose penalties on people who publicly and intentionally insulted the national anthem or misused the national anthem. The relevant provisions governing the validity of an oath taken by a Member-elect were provided for in Cap. 11 and BL 104. Furthermore, court judgments had also clearly explained the legal requirements in respect of oath taking under the Basic Law, the Interpretation of BL104 by NPCSC and relevant local legislation. The Administration did not consider it necessary to introduce any amendments to the draft Bill.

*Clause 5(3)*

12. Mr Charles MOK enquired whether there would be specific requirements regarding the "musical instruments" referred to in clause 5(3). The Administration said that the State Council was currently preparing the standard score and the musical instrument requirements. The official recording of the national anthem would be published by the State Council in the near future. The Administration noted that the official recording of the national anthem would be available in symphonic, winds and piano versions.

*(At 3:28 pm, Mr Claudia MO drew to the Deputy Chairman's attention that a quorum was not present. The Deputy Chairman ordered the ringing of the quorum bell to summon members to the meeting. The meeting resumed at 3:37 pm when a quorum was present.)*

*(At 5:05 pm, Mr CHU Hoi-dick drew to the Deputy Chairman's attention that a quorum was not present. The Deputy Chairman ordered the ringing of the quorum bell to summon members to the meeting. The meeting resumed at 5:14 pm when a quorum was present.)*

Follow-up action required of the Administration

Admin

13. The Administration was requested to confirm in writing whether the Masters Games ("先進運動會") organized by the Leisure and Cultural Services Department should also be considered as "a major sporting event held by the Government" under the Bill.

Date of next meeting

14. Members noted that the next meeting would be held on Saturday, 27 April 2019, from 8:45 am to 12:45 pm.

Action

**II. Any other business**

15. There being no other business, the meeting ended at 6:29 pm.

Council Business Division 2  
Legislative Council Secretariat  
10 October 2019

**Proceedings of the ninth meeting of the  
Bills Committee on National Anthem Bill  
on Thursday, 25 April 2019, from 2:30 pm to 6:30 pm  
in Conference Room 2 of the Legislative Council Complex**

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
000825 - 001305	Deputy Chairman Dr KWOK Ka-ki	Opening remarks  Discussion on the meeting arrangements	
001306 - 001625	Deputy Chairman Mr Gary FAN Administration	Continuation of clause-by-clause examination of the National Anthem Bill ("the Bill")  <b>Part 2 – Playing and Singing of National Anthem</b>  <u>Examination of clause 4</u>  - Discussion on the application of the requirement under clause 4(2)(a) to persons who were physically unable to speak, hear and/or stand up, while taking part or attending an occasion on which the national anthem was played and sung	
001626 - 001900	Deputy Chairman Mr WU Chi-wai Administration	- Discussion on the requirements under clause 4(2)	
001901 - 002140	Deputy Chairman Mr CHU Hoi-dick Administration	- Query about why Article 13 of the Law of the People's Republic of China on National Flag was not adopted by the Government in drafting of the National Flag and National Emblem Bill in 1997	
002141 - 002415	Deputy Chairman Mr KWONG Chun-yu Administration	- Query about whether clause 4 of the Bill was redundant	
002416 - 003000	Deputy Chairman Dr Fernando CHEUNG Mr CHAN Chi-chuen Administration	- Query about the definition of "an occasion on which the national anthem is played and sung" and whether it referred to "公開場合"	
003001 - 003209	Deputy Chairman Mr Jeremy TAM Administration	- Discussion on the drafting issue of clause 4(2)(b)	
003210 - 003424	Deputy Chairman Dr KWOK Ka-ki Administration	- Discussion on the scope of applicability of clause 4	
003425 - 003640	Deputy Chairman Administration	<u>Examination of clause 5 and Schedule 3</u>	



Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
003641 - 004504	Deputy Chairman Mr Alvin YEUNG Mr Gary FAN Administration	- Discussion on the inclusion of the occasions set out in Schedule 3 to the Bill and the responsibility for playing the national anthem on those occasions	
004505 - 004918	Deputy Chairman Dr KWOK Ka-ki Administration	- Query about the inclusion of oath-taking ceremony for taking the Judicial Oath in Schedule 3 to the Bill	
004919 - 005320	Deputy Chairman Mr LAM Cheuk-ting Administration	- Query about why the occasions set out in Schedule 3 to the Bill were only restricted to major events held by the Government	
005321- 005746	Deputy Chairman Mr LEUNG Yiu-chung Administration	- Query about the consequences for failure to comply with the requirements under clause 5	
005747 - 010118	Deputy Chairman Mr Charles Peter MOK Administration	- Query about the requirements regarding the "musical instruments" under clause 5(3)	
010119 - 011502	Deputy Chairman Ms Claudia MO Administration	Quorum call  - Discussion on the occasions set out in Schedule 3 to the Bill	
011503 - 012754	Deputy Chairman Mr CHAN Chi-chuen Mr WU Chi-wai Mr LEUNG Yiu-chung Administration	- Queries about the legal consequences for failure to comply with the requirements under clause 5, in particular whether failure to comply on the oath-taking ceremony for taking the Legislative Council ("LegCo") Oath would render the oath-taking as incompleting	
012755- 013103	Deputy Chairman Mr Charles Peter MOK Administration	- Query about the standard score and the official recording of the national anthem provided in clause 5(3)	
013104 - 013457	Deputy Chairman Mr Gary FAN Administration	- Discussion on the consequences for failure to comply with the requirements under clause 5 and occasions set out in Schedule 3 to the Bill	
013458 - 013826	Deputy Chairman Mr WU Chi-wai Administration	- Discussion on the standard for singing the national anthem on the occasions set out in Schedule 3 to the Bill	
013827 - 014300	Deputy Chairman Dr Fernando CHEUNG Administration	- Discussion on whether the Bill was applicable to the playing and singing of national anthems of other countries on the occasions set out in Schedule 3 to the Bill	
014301 - 014732	Deputy Chairman Mr HUI Chi-fung Administration	- Query about why it was necessary to include oath-taking ceremony for taking the LegCo Oath in Schedule 3 to the Bill	
014733 - 015156	Deputy Chairman Mr AU Nok-hin Administration	- Discussion on the definition of "major sporting event held by the Government"	

Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
015157 - 015622	Deputy Chairman Dr CHENG Chung-tai Administration	- Discussion on the requirements to be applied on the oath-taking ceremony for taking the LegCo Oath	
015623 - 015944	Deputy Chairman Mr AU Nok-hin Administration	The Deputy Chairman's request for the Administration to provide a written response to Mr AU Nok-hin's request for a written confirmation about whether the Masters Games ("先進運動會") organized by the Leisure and Cultural Services Department should also be considered as "a major sporting event held by the Government" under the Bill.	<b>Admin</b> (para. 13 of minutes)
015945 - 020340	Deputy Chairman Dr Junius HO Administration	- Discussion about the application of the requirements under clause 5(1) and clause 6	
020341 - 020856	<b>Break</b>		
020857 - 021224	Deputy Chairman Ms Claudia MO Administration	- Discussion on the drafting issues of clause 5, in particular what "the purposes of" and "a website of the Government" in clause 5(4) referred to	
021225 - 021540	Deputy Chairman Dr CHENG Chung-tai Administration	- Further discussion on the requirement to be applied on the oath-taking ceremony for taking the LegCo Oath	
021541 - 021830	Deputy Chairman Mr Charles Peter MOK Administration	- Queries about when the standard score and the official recording of the national anthem provided in clause 5(3) would be announced, and why the "website of the Government" in clause 5(4) was not specified	
021831 - 022014	Deputy Chairman Mr WU Chi-wai Administration	- Discussion on the definition of occasions "held by the Government" in Schedule 3 to the Bill	
022015 - 022338	Deputy Chairman Mr CHAN Chi-chuen Administration	- Discussion on the requirements relating to the playing and singing of the national anthem under clause 5(3)	
022339 - 022608	Deputy Chairman Mr AU Nok-hin Administration Senior Assistant Legal Adviser	- Discussion on the playing and singing of the national anthem at the Hong Kong Games and the definition of occasions "held by the Government" in Schedule 3 to the Bill	
022609 - 023020	Deputy Chairman Mr CHU Hoi-dick Administration	- Query about the use of the word "must" in clause 5(1)	
023021 - 023250	Deputy Chairman Dr CHENG Chung-tai Administration	- Discussion on the requirements regarding the "musical instruments" under clause 5(3)	
023251 - 023622	Deputy Chairman Mr CHU Hoi-dick Administration	- Discussion on the criteria for amending Schedule 3 by the Chief Executive in Council	

Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
023623 - 023842	Deputy Chairman Mr CHAN Chi-chuen Administration	- Discussion on the requirements regarding the "musical instruments" under clause 5(3)	
023843 - 024735	Deputy Chairman Mr CHU Hoi-dick	Quorum call	
024736 - 025008	Deputy Chairman Ms Claudia MO Administration	- Discussion on the drafting issues of clause 5(4)	
025009 - 025256	Deputy Chairman Mr CHU Hoi-dick Administration	- Query about the meaning of "shall (應當)" in Article 4 of the Law of the People's Republic of China on National Anthem and the meaning of "must (須)" in clause 5(1)	
025257 - 025510	Deputy Chairman Mr AU Nok-hin Mr CHU Hoi-dick Ms Claudia MO Administration	- Discussion on the purposes of Part 2 of the Bill and the meeting arrangements	
025511 - 025636	Deputy Chairman Mr CHAN Chi-chuen Administration	- Query about who should be responsible for failure to arrange the national anthem to be played and sung on the occasions set out in Schedule 3 to the Bill	
025736 - 030000	Deputy Chairman Dr Fernando CHEUNG Administration	- Query about whether playing and singing of national anthem should be arranged in conjunction with the National flag raising ceremonies held by the Government	
030001 - 033006	Deputy Chairman Members Clerk	- Discussion on the meeting arrangements  - Mr HUI Chi-fung's request for putting on record his opposition to the Chairman/Deputy Chairman resorting to "draw a line" to disallow any further questions from members when the Chairman/Deputy Chairman considered that there was adequate discussion on the relevant provision of the Bill	
033007 - 033440	Deputy Chairman Mr Gary FAN Dr CHENG Chung-tai Administration	- Discussion on the drafting issues of clause 5(3) and the details of the official recording of the national anthem	
033441 - 033636	Deputy Chairman Ms Claudia MO Administration	- Discussion on the requirements regarding the "musical instruments" under clause 5(3)	
033637 - 033810	Deputy Chairman Mr CHU Hoi-dick Administration	- Discussion on the inclusion of oath-taking ceremonies set out in Schedule 3 to the Bill	
033811 - 034018	Deputy Chairman Mr AU Nok-hin Administration	- Discussion on the purposes of Part 2 of the Bill and drafting issues of Schedule 3	

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
034019 - 034618	Deputy Chairman Dr Helena WONG Administration	- Query about the consequences for failure to comply with the requirements under clause 5, in particular failure to comply on oath-taking ceremony for taking the LegCo Oath	
034619 - 034852	Deputy Chairman Mr HUI Chi-fung Administration	- Query about the inclusion of oath-taking ceremony for taking the Judicial Oath and the Ceremonial Opening of the Legal Year in Schedule 3 to the Bill	
034853 - 035512	Deputy Chairman Mr CHAN Chi-chuen Mr AU Nok-hin Administration	<b>Part 3 – Protection of National Anthem</b>  <u>Examination of clauses 6 and 8</u>  Discussion on the meeting arrangements	
035513 - 040006	Deputy Chairman Mr Alvin YEUNG Administration	- Discussion on the scope of clauses 6 and 8 and the definition of "reasonable excuse" under clause 6(3)	
040007 - 040256	Deputy Chairman Mr Gary FAN Administration	- Query about the definition of "background music in a public place" under clause 6(2)	
040257 - 040305	Deputy Chairman	Closing remarks	

Council Business Division 2  
Legislative Council Secretariat  
 10 October 2019