

立法會
Legislative Council

LC Paper No. CB(2)160/18-19

Ref : CB2/H/5/18

House Committee of the Legislative Council

**Minutes of the 3rd meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 26 October 2018**

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
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 Mrs Regina IP LAU Suk-yee, GBS, 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 LEUNG Che-cheung, SBS, MH, 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
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, 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
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, JP
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung, JP
Hon LAU Kwok-fan, MH
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 Dennis KWOK Wing-hang (Deputy Chairman)
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jimmy NG Wing-ka, JP
Hon Kenneth LAU Ip-keung, BBS, 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 YICK Wing-kin	Senior Assistant Legal Adviser 2
Mr Kelvin LEE	Senior Assistant Legal Adviser 3
Ms Hallie CHAN	Head (Public Information)
Ms Alice LEUNG	Chief Council Secretary (2)6
Ms Vanessa CHENG	Assistant Legal Adviser 5
Ms Wendy KAN	Assistant Legal Adviser 6
Mr Mark LAM	Assistant Legal Adviser 7
Mr Cliff IP	Assistant Legal Adviser 8
Miss Connie AU	Senior Council Secretary (2)6
Mr Richard WONG	Senior Council Secretary (2)8
Miss Michelle TANG	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 2nd meeting held on 19 October 2018

(LC Paper No. CB(2)126/18-19)

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 19 October 2018 and tabled in Council on 24 October 2018**
(*LC Paper No. LS5/18-19*)

3. At the invitation of the Chairman, Legal Adviser ("LA") briefed Members on the report prepared by the Legal Service Division ("LSD") on the 25 items of subsidiary legislation (i.e. L.N. 173 to L.N. 197) which were gazetted on 19 October 2018 and tabled in Council on 24 October 2018.

4. Mr James TO considered it necessary to form a subcommittee to study in detail the 17 items of subsidiary legislation (L.N. 174 to L.N. 190) relating to the implementation of the Maritime Labour Convention concerning the working and living conditions of seafarers. Members agreed. Mr James TO and Mr Steven HO agreed to join the proposed subcommittee.

5. Mr James TO further considered it necessary to form a subcommittee to study the Registration of Persons (Application for New Identity Cards) Order 2018 (L.N. 193) and the Registration of Persons (Application for New Identity Cards) Order (Repeal) Order (L.N. 194) in detail. Members agreed. Mr James TO agreed to join the proposed subcommittee.

6. Regarding the Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements-Banking Sector) Rules (L.N. 195) and the Securities and Futures (Financial Resources) (Amendment) Rules 2018 (L.N. 196), Mr James TO enquired whether it would be more appropriate and efficient if one single subcommittee was formed to study the two items of subsidiary legislation together. At the invitation of the Chairman, LA advised that Members might decide the manner in which subsidiary legislation was to be considered. In relation to L.N. 195 and L.N. 196, Members might wish to note that they were made by different authorities in that L.N. 195 was made by the Monetary Authority while L.N. 196 was made by the Securities and Futures Commission. Mr CHAN Chun-ying said that given the substantial number of provisions of L.N. 195, he considered it undesirable for one single subcommittee to study both L.N. 195 and L.N. 196. The Chairman concluded that it would be more appropriate for these two items of subsidiary legislation to be studied in detail by two separate subcommittees, if necessary. Mr TO raised no objection.

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7. Mr James TO considered it necessary to form a subcommittee to study L.N. 195 in detail. Members agreed. Mr James TO and Mr CHAN Chun-ying agreed to join the proposed subcommittee.

8. Mr James TO also considered it necessary to form a subcommittee to study L.N. 196 in detail. Members agreed. Mr James TO and Mr Kenneth LEUNG agreed to join the proposed subcommittee.

9. As regards the Statute Law (Miscellaneous Provisions) Ordinance 2018 (Commencement) Notice (L.N. 197), Mr James TO noted that Part 6 of the Statute Law (Miscellaneous Provisions) Ordinance 2018 (Ord. No. 17 of 2018) made technical amendments to the Mainland Judgments (Reciprocal Enforcement) Ordinance (Cap. 597). These amendments included replacements of "recognized Basic People's Court(s)" by "recognized Primary People's Court(s)" and "Basic People's Courts" by "Primary People's Courts" in the English text of Cap. 597 in order to achieve consistency with the English translation of the same terms in the Mainland. Mr TO requested that further information be sought from the Administration as to whether the English equivalent of "基層人民法院" in the Mainland had recently been changed from "Basic People's Courts" to "Primary People's Courts" which made it necessary for the above replacements to be made, and whether the English equivalent of "基層人民法院" in the Mainland was not "Basic People's Courts" at the time of enactment of Cap. 597. The Chairman instructed LSD to seek further information from the Administration and said that upon receipt of the requested information, the House Committee ("HC") would further consider L.N. 197 at its next meeting.

LSD

10. Members did not raise any questions on the other three items of subsidiary legislation (i.e. L.N. 173, L.N. 191 and L.N. 192).

11. The Chairman reminded Members that the deadline for amending the above 25 items of subsidiary legislation would be the Council meeting of 21 November 2018, or that of 12 December 2018 if extended by a resolution of the Council.

(b) Legal Service Division report on subsidiary legislation gazetted on 22 October 2018 and tabled in Council on 24 October 2018
(LC Paper No. LS6/18-19)

12. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the seven items of subsidiary legislation (i.e. L.N. 198 to L.N. 204) which were gazetted on 22 October 2018 and tabled in Council on 24 October 2018.

13. Mr Jeremy TAM considered it necessary to form a subcommittee to study in detail the five items of subsidiary legislation (L.N. 198 to L.N. 202) relating to the commissioning of the Hong Kong-Zhuhai-Macao Bridge. Members agreed. Mr LAM Cheuk-ting and Mr Jeremy TAM agreed to join the proposed subcommittee.

14. Members did not raise any questions on the other two items of subsidiary legislation (i.e. L.N. 203 and L.N. 204).

15. The Chairman reminded Members that the deadline for amending the above seven items of subsidiary legislation would be the Council meeting of 21 November 2018, or that of 12 December 2018 if extended by a resolution of the Council.

IV. Further business for the Council meeting of 31 October 2018

(a) Questions
(LC Paper No. CB(3)66/18-19)

16. The Chairman informed Members that Mr Paul TSE had replaced his oral question.

(b) Members' motions

- (i) Proposed resolution under section 34(4) of the Interpretation and General Clauses Ordinance (Cap. 1) to be moved by Hon Kenneth LEUNG in relation to the Tax Reserve Certificates (Rate of Interest) (Consolidation) (Amendment) Notice 2018**
(LC Paper No. CB(3)70/18-19)

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(ii) **Proposed resolution under section 34(4) of the Interpretation and General Clauses Ordinance (Cap. 1) to be moved by Hon Kenneth LEUNG in relation to the following items of subsidiary legislation:**

- **Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Republic of India) Order; and**
- **Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Prevention of Tax Evasion and Avoidance) (Republic of Finland) Order**

(LC Paper No. CB(3)71/18-19)

17. The Chairman said that the purpose of the above two proposed resolutions was to extend the period for amending the subsidiary legislation concerned to the Council meeting of 28 November 2018.

V. Business for the Council meeting on 7, 8 and 9 November 2018

(a) **Questions**

(LC Paper No. CB(3)67/18-19)

18. The Chairman said that 22 written questions had been scheduled for the meeting.

(b) **Member's motion**

Motion of Thanks

(LC Paper No. CB(2)135/18-19(01))

19. The Chairman informed Members that she, as the HC Chairman, would move the Motion of Thanks at the meeting, and the deadline for giving notice of amendments, if any, would be Wednesday, 31 October 2018.

20. Members agreed to adopt for the debate on the Chief Executive's 2018 Policy Address the arrangements which were largely the same as those for the debates on the Policy Addresses in the previous two legislative sessions. The debate would be held on three consecutive

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days in five sessions and each session would be dedicated to a group of policy areas. Each Member might speak once in each of the five debate sessions, subject to the total speaking time limit of 30 minutes.

21. Members also agreed to the proposed grouping of policy areas for the five debate sessions proposed by the Administration which was set out in the Annex to the Director of Administration's letter dated 18 October 2018.

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)73/18-19), which contained 20 items of subsidiary legislation the period for amendment of which would expire at the Council meeting of 7 November 2018. She reminded Members to indicate their intention by 5:00 pm on Tuesday, 30 October 2018, should they wish to speak on any of those items of subsidiary legislation.

VI. Advance information on business for the Council meeting of 14 November 2018

Member's Bill - First Reading and moving of Second Reading

23. The Chairman said that the Professional Accountants (Amendment) Bill 2018 would be introduced by Mr Kenneth LEUNG at the meeting, and HC would consider the Bill at its meeting on 16 November 2018.

VII. Reports of Bills Committees and subcommittees

(a) Report of the Subcommittee on Proposed Resolution under Section 3(1) of the Loans Ordinance (Cap. 61)
(LC Paper No. CB(1)83/18-19)

24. Ir Dr LO Wai-kwok, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Ir Dr LO said that the Subcommittee had considered amendments proposed by Mr CHU Hoi-dick and Mr AU Nok-hin to the above proposed resolution and decided not to move any amendments to it. Members also noted that the Administration would not propose any amendments to the proposed resolution and that the Subcommittee raised

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no objection to the Administration giving fresh notice to move the proposed resolution at the Council meeting of 14 November 2018.

25. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above proposed resolution would be Wednesday, 7 November 2018.

(b) **Report of the Subcommittee on Rights of Ethnic Minorities**
(*LC Paper No. CB(2)128/18-19*)

26. Mr Paul TSE, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Mr TSE said that the Subcommittee had completed its work. Since the commencement of its work in November 2016, the Subcommittee had held a total of 17 meetings to meet with the Administration and received views from the public at 11 of these meetings. Mr TSE further said that the Subcommittee had in-depth discussion on a number of issues, including the difficulties encountered by ethnic minorities ("EMs") in the areas of education, employment, healthcare services, housing and etc., the poverty problem of EMs as well as the shortage of venues for EMs to conduct religious and cultural activities. The Subcommittee was pleased to learn that the Government had set up the Steering Committee on Ethnic Minorities under the leadership of the Chief Secretary for Administration to coordinate the Government's efforts on enhanced support for EMs, and also earmarked \$500 million in the 2018-2019 Budget to strengthen support for EMs.

27. Mr TSE further advised that as the period of work of the Subcommittee was coming to an end, the Subcommittee agreed that it should wrap up its work to vacate a slot for the activation of subcommittees on policy issues on the waiting list. Regarding the new measures to be drawn up by the Government to strengthen support for EMs, the Subcommittee would request the Administration to report the details of such measures to the relevant Panels for follow-up.

VIII. Position on Bills Committees and subcommittees
(*LC Paper No. CB(2)127/18-19*)

28. The Chairman said that as at 25 October 2018, there were nine Bills Committees, 11 subcommittees under HC and four subcommittees on policy issues under Panels in action. Nine policy subcommittees were on the waiting list.

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IX. Election of members of The Legislative Council Commission
(LC Paper No. AS10/18-19)

X. Election of members of the Committee on Access to the Legislature's Documents and Records
(LC Paper No. COA3/18-19)

29. The Chairman said that Members had been invited vide LC Paper No. AS7/18-19 and LC Paper No. COA1/18-19 issued by the Secretariat to make nominations of Members for election to The Legislative Council Commission ("the Commission") and the Committee on Access to the Legislature's Documents and Records ("CoA") respectively. By the deadline for nominations (i.e. 22 October 2018), a total of 10 nominations were received each for elections to the Commission and CoA. As the number of nominations received was equal to the maximum number of members that could be elected, no poll would need to be taken for elections of members to the Commission and CoA.

30. The Chairman declared the following 10 Members elected as members of the Commission:

Mr Abraham SHEK
Mr WONG Ting-kwong
Mr CHAN Hak-kan
Mr Paul TSE
Mr MA Fung-kwok
Mr Charles MOK
Ms Alice MAK
Dr Helena WONG
Mr CHUNG Kwok-pan
Mr Jeremy TAM

31. The Chairman declared the following 10 Members elected as members of CoA:

Mr James TO
Mr Abraham SHEK
Mr WONG Ting-kwong
Mr CHAN Hak-kan
Mr Paul TSE
Mr MA Fung-kwok
Mr Charles MOK
Ms Alice MAK
Mr CHUNG Kwok-pan
Mr Jeremy TAM

XI. Request of Dr Hon KWOK Ka-ki to seek the House Committee's recommendation for the holding of an adjournment debate pursuant to Rule 16(4) of the Rules of Procedure at the Council meeting of 31 October 2018 on the relationship between the decision of the Returning Officer to declare the nomination of a candidate for a Legislative Council election invalid and the fundamental rights of Hong Kong residents stipulated in the Basic Law
(LC Paper No. CB(2)135/18-19(02))

32. The Chairman said that Members who wished to speak on this item should focus on indicating whether or not they supported Dr KWOK Ka-ki's proposal to hold an adjournment debate pursuant to Rule 16(4) of the Rules of Procedure ("RoP") at the Council meeting of 31 October 2018 on the relationship between the decision of the Returning Officer to declare the nomination of a candidate for a Legislative Council ("LegCo") election invalid and the fundamental rights of Hong Kong residents stipulated in the Basic Law ("BL"). She reminded Members that the 2018 LegCo Kowloon West Geographical Constituency By-election ("the LegCo Kowloon West GC By-election") to be held on 25 November 2018 was regulated by law to ensure that it was conducted openly and fairly, and therefore, Members must take note of the requirements provided by the election legislation and guidelines. The Chairman further said that to avoid affecting the fair conduct of the LegCo Kowloon West GC By-election, Members should not disseminate messages that might be seen as promoting or prejudicing the election of any candidates or might achieve a similar effect. Specifically, Members should not mention the names of any candidates or imply that they supported or did not support any candidates; should not comment on any individual candidates including the one whose nomination had been declared invalid by the Returning Officer for the Kowloon West GC By-election; and should not display any objects that might achieve the aforesaid effect.

33. The Chairman further said that if she considered that the speech of any Member would have an impact on the fair conduct of the LegCo Kowloon West GC By-election, she would remind the Member not to make such comments. If the Member ignored her instruction and continued to make such comments, she would ask the Member to stop speaking.

34. At the invitation of the Chairman, Dr KWOK Ka-ki said that BL 26 provided that Hong Kong residents should have the right to vote and the

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right to stand for election. Besides, under BL 39, the provisions of the International Covenant on Civil and Political Rights ("ICCPR") as applied to Hong Kong should remain in force, and the rights and freedoms enjoyed by Hong Kong residents should not be restricted unless as prescribed by law. Therefore, he considered it unacceptable for the Returning Officer to determine and declare the nomination of a candidate for a LegCo election invalid without giving the candidate any opportunity to defend himself or herself. Dr KWOK also queried that the determinations of the Returning Officers that the nominations of certain candidates for the LegCo elections and By-elections were invalid were deliberate attempts made by the Central People's Government and the Hong Kong Special Administrative Region ("HKSAR") Government to stop the opposition from standing for elections, which amounted to violation of the principle of "one country, two systems" and BL. Therefore, Dr KWOK considered it necessary to hold the proposed adjournment debate.

35. Mr CHEUNG Kwok-kwan, Dr Elizabeth QUAT and Mr Vincent CHENG said that they did not support Dr KWOK Ka-ki's proposal. Mr CHEUNG stressed that the right to vote and the right to stand for election as stipulated in BL 26 had to be exercised in accordance with law, and there was law governing the eligibility for and disqualification from nomination of candidates for a LegCo election. For instance, a person who was an undischarged bankrupt, or was serving a sentence of imprisonment or had been sentenced for imprisonment for not less than three months within five years before the polling day was disqualified from being nominated as a candidate. Mr CHEUNG and Dr QUAT pointed out that the Court of First Instance had ruled that persons standing for a LegCo election had to uphold BL and pledge allegiance to HKSAR. Dr QUAT opined that Members should not try to defend those people who advocated "Hong Kong independence" and use incorrect arguments to confuse the public. Echoing the views of Mr CHEUNG and Dr QUAT, Mr CHENG considered that as the LegCo Kowloon West GC By-election would be held soon, Members should not use a LegCo meeting as a platform to disseminate messages to promote certain candidates that they supported.

36. Dr CHIANG Lai-wan and Mr Holden CHOW also did not support Dr KWOK Ka-ki's proposal. Dr CHIANG and Mr CHOW shared a similar view that legal issues should be addressed through legal means and any person being disqualified from being nominated as a candidate for a LegCo election could seek redress by way of an election petition against the determination of the Returning Officer. Mr CHOW stressed that the Returning Officer had the statutory power to determine

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the validity of nomination of a candidate for an election according to the legal requirements, adding that "self-determination" was inconsistent with the constitutional and legal status of HKSAR as stipulated in BL and the upholding of BL was one of the legal requirements to be fulfilled by a candidate.

37. Expressing support for Dr KWOK Ka-ki's proposal, Mr Alvin YEUNG and Mr IP Kin-yuen considered that the determinations of the Returning Officers that the nominations of certain candidates for the LegCo elections and By-elections were invalid involved contentious issues which warranted a debate in Council. Mr YEUNG considered it problematic for the Returning Officers to make such determinations based on political factors and without giving any opportunity for some of the candidates to defend themselves. Mr IP considered that irrespective of whether or not Members supported the determinations made by the Returning Officers, they should support Dr KWOK's proposal so that there would be an open platform for discussing some important issues, including whether due process had been followed when the Returning Officers made such determinations, and whether it would be more proper if such determinations were to be made by the court.

38. Mr LAM Cheuk-ting, Mr HUI Chi-fung and Dr Helena WONG expressed a similar view that the determination made by the Returning Officer for the Kowloon West GC By-election was unreasonable, and therefore, Dr KWOK Ka-ki's proposed adjournment debate was warranted. Mr LAM said that there were many cases where people altered their political stance and the party to whom they swore allegiance, and therefore, it was questionable for the Returning Officer for the Kowloon West GC By-election, upon receipt of the Confirmation Form submitted by the candidate making declaration that the candidate would uphold BL and pledge allegiance to HKSAR, to determine that the nomination of the candidate concerned was invalid based on the remarks of the candidate concerned made in the past. Mr HUI criticized the Administration for acting like an authoritarian regime that suppressed political dissidents through stopping them from standing for elections. In his view, the determinations of the Returning Officers that the nominations of certain candidates were invalid amounted to violation of Hong Kong residents' right to vote and right to stand for election provided in BL and ICCPR. Dr WONG considered that irrespective of whether or not Members supported the determination made by the Returning Officer for the Kowloon West GC By-election, the holding of an adjournment debate would provide them with an open platform to debate the relevant issues in a fair manner.

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39. Mr AU Nok-hin, Ms Claudia MO and Mr CHAN Chi-chuen expressed support for Dr KWOK Ka-ki's proposal. Mr AU considered that the determinations made by the Returning Officers were based on their subjective judgement, which amounted to "rule by man" instead of "rule of law". Mr AU also stressed that it was unreasonable for the Returning Officers to make such determinations without giving some of the candidates whose nominations were declared invalid the opportunity to be heard, as in the case of Ms Agnes CHOW Ting, a candidate nominated for the 2018 LegCo By-election held in March 2018. Ms MO said that she was disappointed that neither the Electoral Affairs Commission, the Secretary for Justice nor the Chief Executive had given a full explanation about the determination of the Returning Officer for the Kowloon West GC By-election. She criticized the Government for using administrative means to suppress candidates for elections who held dissenting views. Mr CHAN said that the determination of the Returning Officer for the Kowloon West GC By-election was by nature a political decision, and he considered it unacceptable for not giving the candidate concerned the opportunity to be heard. Referring to a mistake made about a date in the letter issued by the Returning Officer for the Kowloon West GC By-election to the candidate concerned, Mr CHAN criticized the Returning Officer for making the determination in a hasty manner and on the basis of biased information.

40. Mr HO Kai-ming and Mr WONG Kwok-kin objected to Dr KWOK Ka-ki's proposal. Pointing out that as the polling day of the LegCo Kowloon West GC By-election was coming soon, they considered it very inappropriate to hold the proposed adjournment debate as it would be tantamount to providing a platform for some Members to conduct electioneering activities for promoting certain candidates. Mr HO said that the right to vote and the right to stand for election as provided under BL 26 had to be exercised in accordance with law, and the Returning Officer for the Kowloon West GC By-election had given the reasons for determining that the nomination of the candidate concerned was invalid. Mr WONG said that any person disqualified from being nominated as a candidate for an election could lodge an election petition.

41. Dr Priscilla LEUNG, Mr Paul TSE and Mr SHIU Ka-fai did not support the holding of the proposed adjournment debate at the Council meeting of 31 October 2018. Dr LEUNG and Mr SHIU said that the Returning Officer for the Kowloon West GC By-election had the statutory power to determine the validity of nominations of candidates. In Dr LEUNG's view, if a candidate had failed to take a valid LegCo Oath, it

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was reasonable for the Returning Officer for the Kowloon West GC By-election to be unconvinced that the candidate concerned would uphold BL and pledge allegiance to HKSAR. She added that she had all along held the view that a LegCo Member who had been disqualified from his/her office should be banned from standing for election in any By-elections within the same LegCo term. Mr SHIU considered that any candidates who advocated "Hong Kong independence" in whatever manner should not be allowed to stand for LegCo elections. He echoed the views of some Members that any person disqualified from being nominated as a candidate for an election could seek redress by way of an election petition. Mr TSE considered it inappropriate to hold the proposed adjournment debate at the present stage, not only because the LegCo Kowloon West GC By-election would be held soon on 25 November 2018, but also because there were other relevant election petition cases pending to be heard by the courts. Neither did he see any urgency for holding the proposed adjournment debate too.

42. Dr KWOK Ka-ki said that it was the duty of LegCo to discuss matters of injustice. He commented that the views raised by Members of the pro-establishment camp were to confound right and wrong, and considered it disappointing that they did not support his proposal. He reiterated his view that the proposed adjournment debate concerned the rule of law and Hong Kong's reputation in the international community.

43. Given Members' diverse views, the Chairman put to vote the proposal of Dr KWOK Ka-ki to move a motion for adjournment of the Council, in addition to two Members' motions without legislative effect, pursuant to RoP 16(4) at the Council meeting of 31 October 2018 for the purpose of conducting a debate on the relationship between the decision of the Returning Officer to declare the nomination of a candidate for a LegCo election invalid and the fundamental rights of Hong Kong residents stipulated in BL. The Chairman ordered a division.

The following Members voted in favour of the proposal:

Mr James TO, Mr LEUNG Yiu-chung, Ms Claudia MO, Mr WU Chi-wai, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Dr Pierre CHAN, Ms Tanya CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr KWONG Chun-yu, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin.

(23 Members)

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The following Members voted against the proposal:

Mr Abraham SHEK, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Dr Junius HO, 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, Mr Vincent CHENG and Mr Tony TSE.

(34 Members)

44. The Chairman declared that 23 Members voted for and 34 Members voted against the proposal, and no Member abstained from voting. The Chairman declared that the proposal was not supported.

XII. Any other business

45. The Chairman said that she had received a letter from Dr CHIANG Lai-wan just before noon of the day of this meeting, requesting HC to discuss at this meeting her proposal to seek HC's agreement for asking an urgent oral question at the Council meeting of 31 October 2018 on the leakage of passengers' personal data by the Cathay Pacific Airways Limited and its subsidiary ("the data leakage incident"). Taking into consideration the heavy agenda of this meeting, she had decided not to put Dr CHIANG's proposal under "Any other business" for Members' consideration. She would only allow Dr CHIANG to give a brief account on her reasons for asking the proposed question but no discussion on Dr CHIANG's proposal would be allowed afterwards.

(Post-meeting note: Dr CHIANG Lai-wan's letter dated 26 October 2018, which was tabled at the meeting, was circulated to Members vide LC Paper No. CB(2)167/18-19(01) on 1 November 2018.)

46. At the invitation of the Chairman, Dr CHIANG Lai-wan said that the data leakage incident had attracted extensive coverage in the mass media both locally and internationally. She considered that the data leakage incident was indeed a matter of public importance given that more than 9.4 million passengers had been affected and the personal data

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being leaked included passengers' names, nationalities, dates of birth, passport numbers and identity card numbers. Besides, there were a very large number of the affected passengers who had not been informed about whether their personal data had been leaked, and hence it was important for them to know what remedial actions they could take. Therefore, Dr CHIANG considered it necessary to ask the proposed question at the Council meeting of 31 October 2018 so that the Administration would be requested to answer questions on the relevant issues.

47. The Chairman said that Dr CHIANG Lai-wan could seek the President's permission directly for asking the proposed question in accordance with RoP 24(4). She added that should Members have views on Dr CHIANG's proposal, they might communicate directly with Dr CHIANG or the President after the meeting.

48. There being no other business, the meeting ended at 3:29 pm.

Council Business Division 2
Legislative Council Secretariat
1 November 2018