

立法會  
*Legislative Council*

LC Paper No. CB(2)371/18-19

Ref : CB2/H/5/18

**House Committee of the Legislative Council**

**Minutes of the 7th meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 30 November 2018**

**Members present :**

Hon Starry LEE Wai-king, SBS, JP (Chairman)  
Hon Dennis KWOK Wing-hang (Deputy Chairman)  
Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, 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-ye, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Claudia MO  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, SBS, JP  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
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  
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  
Dr Hon Pierre CHAN  
Hon CHAN Chun-ying, JP  
Hon Tanya CHAN  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
Hon LAU Kwok-fan, MH  
Dr Hon CHENG Chung-tai  
Hon KWONG Chun-yu  
Hon Gary FAN Kwok-wai  
Hon AU Nok-hin  
Hon Vincent CHENG Wing-shun, MH  
Hon Tony TSE Wai-chuen, BBS  
Hon CHAN Hoi-yan

**Members absent :**

Hon Michael TIEN Puk-sun, BBS, JP  
Hon MA Fung-kwok, SBS, JP  
Hon SHIU Ka-chun  
Hon YUNG Hoi-yan  
Hon LUK Chung-hung, JP  
Hon Kenneth LAU Ip-keung, BBS, MH, JP  
Hon Jeremy TAM Man-ho

**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 Anthony CHU	Acting 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 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
Mr Alvin CHUI	Assistant Legal Adviser 3
Ms Vanessa CHENG	Assistant Legal Adviser 5
Ms Wendy KAN	Assistant Legal Adviser 6
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 6th meeting held on 23 November 2018**

*(LC Paper No. CB(2)329/18-19)*

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

#### **Legal Service Division report on subsidiary legislation gazetted on 23 November 2018 and tabled in Council on 28 November 2018**

*(LC Paper No. LS22/18-19)*

3. At the invitation of the Chairman, Legal Adviser briefed Members on the report prepared by the Legal Service Division on two items of subsidiary legislation (i.e. L.N. 228 and L.N. 229) which were gazetted on 23 November 2018 and tabled in Council on 28 November 2018.

4. Mr Kenneth LEUNG considered it necessary to form a subcommittee to study the Telecommunications (Carrier Licences) (Amendment) Regulation 2018 (L.N. 229) in detail. Members agreed. Mr Kenneth LEUNG agreed to join the proposed subcommittee.

*(Post-meeting note: Members were informed on 6 December 2018 vide LC Paper No. CB(1)281/18-19 that as no Member had signified to join the proposed subcommittee by the deadline for signification of membership, the proposed subcommittee could not be formed.)*

5. Members did not raise any questions on the other item of subsidiary legislation (i.e. L.N. 228).

6. The Chairman reminded Members that the deadline for amending the above two items of subsidiary legislation would be the Council meeting of 12 December 2018, or that of 16 January 2019 if extended by a resolution of the Council.

### IV. Further business for the Council meeting of 5 December 2018

#### **Tabling of papers**

#### **Report No. 6/18-19 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments**

*(LC Paper No. CB(2)331/18-19)*

7. The Chairman said that the Report covered one item of subsidiary legislation (i.e. the Tax Reserve Certificates (Rate of Interest) (Consolidation) (Amendment) (No. 2) Notice 2018 (L.N. 211)) and the period for amending it would expire at the Council meeting of 5 December 2018. No Member had indicated intention to speak on the subsidiary legislation.

**V. Business for the Council meeting of 12 December 2018**

**(a) Questions**

*(LC Paper No. CB(3)207/18-19)*

8. The Chairman said that 22 questions (six oral and 16 written) had been scheduled for the meeting.

**(b) Bills - First Reading and moving of Second Reading**

**(i) Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Bill 2018**

**(ii) Fire Safety (Industrial Buildings) Bill**

**(iii) Discrimination Legislation (Miscellaneous Amendments) Bill 2018**

9. The Chairman said that the House Committee ("HC") would consider the above three Bills at its meeting on 14 December 2018.

**(c) Government motion**

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

**(d) Members' motions**

**(i) Motion on "Report of the joint-Panel delegation of the Panel on Economic Development, Panel on Financial Affairs, Panel on Commerce and Industry, and Panel on Information Technology and Broadcasting on its duty visit to the Guangdong-Hong Kong-Macao Greater Bay Area" to be moved by Hon Jeffrey LAM**  
*(LC Paper No. CB(3)208/18-19)*

**(ii) Motion on "Fully transforming into a green and low-carbon smart society and economy, and proactively alleviating and coping with global climate change" to be moved by Hon Martin LIAO**  
*(LC Paper No. CB(3)215/18-19)*

**(iii) Motion on "Reviewing the holiday policy" to be moved  
by Hon POON Siu-ping  
(LC Paper No. CB(3)209/18-19)**

11. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above three motions would be Wednesday, 5 December 2018. The Chairman added that the motion to be moved by Mr POON Siu-ping would be rescheduled to the following Council meeting.

Report of HC on Consideration of Subsidiary Legislation

12. The Chairman invited Members to note the list tabled at the meeting (LC Paper No. CB(3)214/18-19), which contained 38 items of subsidiary legislation the period for amendment of which would expire at the Council meeting of 12 December 2018. She reminded Members to indicate their intention by 5:00 pm on Tuesday, 4 December 2018, should they wish to speak on any of those items of subsidiary legislation.

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

**(a) Report of the Subcommittee on Peak Tramway (Safety)  
(Amendment) Regulation 2018 and Peak Tramway Ordinance  
(Amendment of Section 3(3)) Notice 2018**  

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*(LC Paper No. CB(4)257/18-19)*

13. Mr Jeffrey LAM, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Mr LAM said that the Subcommittee had no objection to the two items of subsidiary legislation and would not propose any amendments to them.

14. Mr LAM further said that Mr HUI Chi-fung had indicated that he would consider proposing an amendment to postpone the commencement date of the Notice from 31 December 2018 to 1 June 2019, with a view to allowing the Administration to have extra five months' time to discuss with the Peak Tramways Company Limited the implementation of an enhanced upgrading plan for replacing the existing peak tramway system.

**(b) Report of the Subcommittee on Subsidiary Legislation to Commence the Requirements of the 2006 Maritime Labour Convention in Hong Kong**  

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*(LC Paper No. CB(4)258/18-19)*

15. Mr James TO, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Mr TO said that members of the Subcommittee in general supported the 17 items of subsidiary legislation and would not propose any amendments to them. He also informed Members that the Subcommittee had urged the Administration to report annually to the Panel on Economic Development on the enforcement situation of the 2006 Maritime Labour Convention in Hong Kong in the first two years after the commencement of relevant provisions of the Merchant Shipping (Seafarers) Ordinance (Cap. 478) and its subsidiary legislation.

**(c) Report of the Subcommittee on Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements — Banking Sector) Rules**  

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16. Mr CHAN Chun-ying, Chairman of the Subcommittee, made a verbal report on the deliberations of the Subcommittee. He said that the purpose of the Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements - Banking Sector) Rules ("the Rules") was to prescribe loss-absorbing capacity ("LAC") requirements for banks in Hong Kong and their holding companies and affiliated operational entities in Hong Kong that were within the scope of the Financial Institutions (Resolution) Ordinance (Cap. 628) ("FIRO"), so as to ensure the availability of sufficient LAC to absorb losses of such financial institutions ("FIs") and contribute to the restoration of their capital position in the event that such FIs were in resolution.

17. Mr CHAN informed Members that the Subcommittee had held three meetings with the Administration and the Hong Kong Monetary Authority ("HKMA"), and received views from deputations. The Subcommittee had noted the grave concern expressed by small and medium-sized banks that they might be subject to the LAC requirements under the Rules. These banks were particularly concerned that HKMA had proposed in the LAC Code of Practice chapter, which was currently under consultation, a total consolidated asset threshold of HK\$150 billion, as a result of which most domestic banks would be required to meet the LAC requirements. This would lead to a substantial

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increase in the operating costs of many small and medium-sized banks. Many members of the Subcommittee had pointed out that the legislative intent of FIRO was to establish a resolution regime for global and domestic FIs with systemic importance. In these members' view, bringing small and medium-sized banks within the scope of application of the Rules was not consistent with the objectives of FIRO.

18. Mr CHAN said that HKMA had pointed out that the threshold of HK\$150 billion was a starting point for HKMA when classifying banks as "resolution entities" and "material subsidiaries". Banks meeting the threshold would not be automatically subject to the Rules or the LAC requirements under the LAC Code of Practice chapter. It was only where the failure of a bank was expected to pose a risk to financial stability, including to depositors, that the bank concerned would be subject to the LAC requirements.

19. Mr CHAN further said that to address the concerns raised by members of the Subcommittee and the trade, the Administration and HKMA had made a number of undertakings, including:

- (a) the total consolidated asset threshold set out in the LAC Code of Practice chapter would be increased to HK\$300 billion;
- (b) excluding non-Chinese global systemically important banks, the earliest date on which any domestic systemically important bank ("D-SIB") would be required to meet the LAC requirements was 1 January 2022, and the earliest date on which any non-D-SIB would be required to meet the LAC requirements was 1 January 2023. Where HKMA determined that an entity would not be able to meet its LAC requirements according to the prescribed timetable, HKMA could consider allowing a longer implementation period on a case-by-case basis;
- (c) the LAC Code of Practice chapter would be reviewed every three years; and
- (d) as regards the calculation of minimum LAC debt requirement, eligible Additional Tier 1 capital instruments would be covered, irrespective of whether such instruments were accounted for as debt or equity.



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20. Mr CHAN also advised that members of the Subcommittee generally welcomed the above undertakings given by the Administration and HKMA. However, some members of the Subcommittee had stressed that when implementing the resolution regime and the corresponding LAC rules in Hong Kong, the Administration and HKMA should make reference to the implementation in other major international financial markets, with a view to avoiding placing Hong Kong as the forerunner of implementing such rules, thereby affecting the competitiveness of the Hong Kong banking sector. At the same time, if HKMA was concerned about the safeguards for depositors, it should review the existing deposit protection regime, rather than extending the LAC requirements to protect depositors.

21. Members noted that both the Subcommittee and the Administration would not propose amendments to the Rules. The Subcommittee would submit a written report in due course.

22. Mr James TO said that most of his views on the Rules had been included in the verbal report given by Mr CHAN Chun-ying. However, he would like to stress again that the resolution regime established under FIRO was designed for those systemically important banks that would be likely to pose a risk to the stability of the global and domestic financial systems. Therefore, small-sized banks should not be the targets of FIRO and bringing such banks within the scope of application of the Rules was not consistent with the objectives of FIRO. While the Administration and HKMA had made certain undertakings, these relief measures could not address his concern about the objectives of FIRO. Mr TO further said that he was studying the Administration's latest written responses, and was considering whether he would propose amendments to or move a motion to repeal the Rules.

**(d) Report of the Subcommittee on Securities and Futures  
(Financial Resources) (Amendment) Rules 2018**

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*(LC Paper No. CB(1)226/18-19)*

23. Mr Christopher CHEUNG, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Mr CHEUNG said that the Subcommittee raised no objection to the Amendment Rules and that both the Administration and the Subcommittee would not propose any amendments to it.

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- (e) **Report of the Subcommittee on Four Commencement Notices Relating to the Commissioning of the Hong Kong-Zhuhai-Macao Bridge Gazetted on 22 October 2018 and Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 3) Notice 2018**  

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*(LC Paper No. CB(2)328/18-19)*

24. Mr Frankie YICK, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Members noted that the Subcommittee raised no objection to the five items of subsidiary legislation and would not propose any amendments to them.

25. The Chairman reminded Members that the period for amending the 26 items of subsidiary legislation studied by the above five Subcommittees would expire at the Council meeting of 12 December 2018, and the deadline for giving notice of amendments, if any, would be Wednesday, 5 December 2018.

**VII. Position on Bills Committees and subcommittees**  
*(LC Paper No. CB(2)330/18-19)*

26. The Chairman said that as at 29 November 2018, there were nine Bills Committees, 14 subcommittees under HC and four subcommittees on policy issues under Panels in action. Ten subcommittees on policy issues were on the waiting list.

**VIII. Any other business**

27. There being no other business, the meeting ended at 2:50 pm.