

立法會
Legislative Council

LC Paper No. CB(2)1048/19-20

Ref : CB2/H/5/19

House Committee of the Legislative Council

**Minutes of the Special House Committee meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 10 January 2020**

Members present :

Hon Starry LEE Wai-king, SBS, JP (Chairman for the 2018-2019 session)
Hon Dennis KWOK Wing-hang (Deputy Chairman for the 2018-2019 session)
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-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 Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, GBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Alvin YEUNG
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, JP
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan, JP
Dr Hon Pierre CHAN
Hon CHAN Chun-ying, JP
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Tony TSE Wai-chuen, BBS
Hon CHAN Hoi-yan

Members absent :

Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon CHUNG Kwok-pan
Hon Andrew WAN Siu-kin
Hon Jimmy NG Wing-ka, BBS, JP
Hon LUK Chung-hung, JP
Hon LAU Kwok-fan, MH
Hon Vincent CHENG Wing-shun, MH, JP

Clerk in attendance :

Miss Flora TAI Clerk to the House Committee

Staff in attendance :

Ms Alice LEUNG	Chief Council Secretary (2)6
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. Election of the Chairman and Deputy Chairman of the House Committee for the 2019-2020 session

Mr Dennis KWOK, Deputy Chairman for the 2018-2019 session and Member presiding at the election of the Chairman of the House Committee ("HC") for the 2019-2020 session ("the said election"), invited Members to note that Mr Charles MOK and Mr Kenneth LEUNG had issued a letter on 6 and 7 January 2020 respectively proposing to move a motion at this meeting, and the two letters were tabled at this meeting. Besides, a table setting out the discussion and voting arrangements for the non-binding motions proposed to be moved by Members at the special HC meetings held for the said election was issued to members on 9 January 2020 vide LC Paper No. CB(2)499/19-20(01).

(Post-meeting note: The letters from Mr Charles MOK and Mr Kenneth LEUNG tabled at this meeting were circulated to Members vide LC Paper Nos. CB(2)509/19-20(01) and (02) on 13 January 2020.)

Letter from Mr HO Kai-ming to Mr Dennis KWOK requesting HC to expedite the election of its Chairman and accord priority to deal with the Employment (Amendment) Bill 2019 ("the Amendment Bill")

2. Mr Dennis KWOK said that he had received a letter from Mr HO Kai-ming shortly before this meeting, which was tabled at the meeting. Mr KWOK then invited Mr HO to speak briefly on his letter.

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(Post-meeting note: The letter from Mr HO Kai-ming tabled at this meeting was circulated to Members vide LC Paper No. CB(2)509/19-20(03) on 13 January 2020.)

3. Mr HO Kai-ming said that despite the fact that more than 10 special HC meetings had been held for the election of the Chairman and Deputy Chairman of HC for the 2019-2020 session in the past three months, the HC Chairman for the 2019-2020 session had yet to be elected. Pending the election of its Chairman and Deputy Chairman, HC was not in a position to consider the bills referred to it under Rule 54(4) of the Rules of Procedure ("RoP"). Mr HO further said that the Amendment Bill, which was introduced into the Legislative Council ("LegCo") on 8 January 2020, would lapse if it could not be passed before the prorogation of the Sixth LegCo in mid-July this year. Therefore, he hoped that Mr Dennis KWOK could expedite the proceedings of the said election so that the Amendment Bill could be scrutinized by Members in a timely manner. Mr HO also appealed to Members that if the HC Chairman for the 2019-2020 session could not be elected at this meeting, they would render their support to the motion moved by the Secretary for Labour and Welfare ("SLW") at the Council meeting of 8 January 2020 under RoP 54(4) that the Second Reading debate on the Amendment Bill be adjourned and the Amendment Bill be referred to the Panel on Manpower ("the Manpower Panel") instead of HC ("the motion moved by SLW"). By doing so, it was hoped that the Amendment Bill could be passed by the Council before the end of the current legislative term.

4. Mr Dennis KWOK considered that the issues raised in the letter of Mr HO Kai-ming were not directly related to the said election, and that this meeting should continue with the proceedings to deal with the non-binding motions proposed by Members. However, he noted that many Members had indicated their wish to speak on Mr HO's letter, he would allow them to do so if they so wished.

5. Ms Claudia MO said that Members from the pro-democracy camp supported the Amendment Bill. However, she had grave concern about the motion moved by SLW. Pointing out that the Panels and the Bills Committees had different terms of reference, she was strongly of the view that the Panels should not be tasked with the scrutiny of bills which had already been introduced into the Council. Echoing the view of Ms MO, Mr Kenneth LEUNG and Mr Jeremy TAM respectively said that the Professionals Guild and the Civic Party supported the Amendment Bill. Mr LEUNG said that while he understood that the Hong Kong Federation

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of Trade Unions as a labour organization was concerned about the Amendment Bill, he considered that the motion moved by SLW would undermine Members' rights in scrutinizing bills. Mr LEUNG further said that a Bills Committee could consider and discuss the amendments to a bill proposed by its members and also propose amendments to a bill if there was agreement among the majority of the members on the proposed amendments. However, a Panel was not tasked to do so. Mr TAM pointed out that the motion moved by SLW would affect the rights of non-Panel members to scrutinize the Amendment Bill and that non-Panel members might have to submit late application for membership so as to participate in the relevant scrutiny work. This would invariably affect the division of duties among Members from the same political party or grouping in respect of the work of Panels.

6. Ms Claudia MO, Mr Kenneth LEUNG and Mr Jeremy TAM also raised concern about the arrangements for resumption of the Second Reading debate on the Amendment Bill in the Council in the event that the election of the Chairman and Deputy Chairman of HC for the 2019-2020 session was still pending when the Manpower Panel had completed its discussion on the Amendment Bill. Ms MO and Mr TAM said that according to RoP 54(5), a debate adjourned under RoP 54(4) might be resumed on notice given by the public officer in charge of the bill in writing after consultation with the HC Chairman. They did not subscribe to the view of SLW that if the HC Chairman for the 2019-2020 session had yet to be elected, the requirement stipulated in RoP 54(5) in respect of the consultation with the HC Chairman could be met by consulting all Members of HC instead. Ms MO and Dr KWOK Ka-ki shared a similar view that SLW had twisted the spirit of RoP 54(5) so as to circumvent the requirement on consultation with the HC Chairman. They were concerned that the Administration might use similar arrangements to deal with controversial legislative proposals or draconian laws in future.

7. Ms Alice MAK said that the main purposes of the Amendment Bill were to, amongst others, extend the statutory maternity leave ("ML") by four weeks and allow a certificate of attendance to be accepted as proof in respect of entitlement to sickness allowance for a day on which a female employee attended a medical examination in relation to her pregnancy. Ms MAK and Mr WONG Kwok-kin said that the labour sector had fought for the proposed enhancements to the ML regime introduced under the Amendment Bill for many years. If the Amendment Bill could not be passed before the prorogation of the Sixth LegCo in mid-July this year,

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the Amendment Bill would lapse and the whole legislative exercise of enhancing the ML regime had to start all over again in the next legislative term. Mr WONG was concerned that in such case, it might bring about uncertainties to the hard-won consensus reached among the labour sector, the employer sector and the Government in this respect. Mr WONG hoped that Members would consider withdrawing all the non-binding motions proposed to be moved at the special HC meetings held for the said election so that the said election could be conducted expeditiously. Ms MAK said that Members should give regard to the well-being of the female employees and urged them to expeditiously elect the HC Chairman for the 2019-2020 session. She added that if Mr Dennis KWOK kept on spending considerable time at each special HC meetings to handle the points of order or questions raised by Members, the proceedings of the said election could not be completed expeditiously.

8. Mr KWOK Wai-keung said that in the past, the proceedings of the election of the Chairman and Deputy Chairman of HC could be completed in one meeting. However, the Chairman of HC for the 2019-2020 session had yet to be elected since the commencement of current legislative session in mid-October 2019 despite the fact that more than 10 special HC meetings had already been held. Mr KWOK criticized that Members from the opposition camp had on the one hand prolonged the proceedings of the said election and on the other hand insisted that the Amendment Bill be referred to HC for consideration. Mr KWOK and Mr Holden CHOW shared a similar view that given the protracted delay in the said election, the motion moved by SLW was a way out to facilitate the Amendment Bill to be scrutinized by Members in a timely manner. Mr CHOW said that there were many matters awaiting the consideration/decision by HC (including a number of bills which were related to people's livelihood) pending the election of the Chairman and Deputy Chairman of HC for the 2019-2020 session. Mr CHOW hoped that the said election could be conducted as soon as possible so that HC could resume its normal operation and transact other business that required its decision.

9. Mr Kenneth LEUNG and Mr Jeremy TAM said that as Members in general were supportive of the Amendment Bill, the scrutiny work of the Amendment Bill would not be long. They considered that there should be enough time to deal with the Amendment Bill in the normal way. Dr KWOK Ka-ki said that the Chief Executive had already stated in the 2018 Policy Address that the Government proposed to extend the statutory ML from 10 weeks to 14 weeks and according to his understanding, the

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proposed extension of the ML period to 14 weeks could only be implemented in 2021-2022 even if the Amendment Bill was enacted in the current legislative term. Both Dr KWOK and Mr TAM queried why the Administration would take such a long time to prepare for the implementation of the enhancements to the ML regime.

10. Mr CHAN Hak-kan said that more than 10 special HC meetings had already been held for the said election in the past three months but the HC Chairman for the 2019-2020 session had yet to be elected. The situation was unsatisfactory as the normal operation of HC had been stalled and it might possibly lead to a constitutional crisis. He considered that the said election should be conducted as soon as possible and he hoped that the Secretariat could liaise with the Chairman in office, Ms Starry LEE, to consult Members' views on holding additional special HC meetings to expedite the said election.

(Post-meeting note: Members were invited to indicate their availability for additional special HC meetings scheduled to be held in February 2020 vide LC Paper No. CB(2)519/19-20 on 14 January 2020.)

11. Dr KWOK Ka-ki said that the current election process had enabled the candidates for the HC Chairman for the 2019-2020 session to give a serious thought to how they could use HC as a platform to facilitate Members to discharge their constitutional duties (e.g. inviting public officials to attend HC meetings to answer questions from Members on issues of public concern). Mr Jeremy TAM and Mr Charles MOK said that in their view, the issues raised in Mr HO Kai-ming's letter in respect of the Amendment Bill were not directly related to the said election. They recalled that Members from the pro-establishment camp had said at the previous special HC meetings that issues not directly related to the said election should not be discussed. Therefore, they found it strange that some Members from the pro-establishment camp had spent a lot of time at this meeting in discussing Mr HO's letter while at the same time requesting Mr Dennis KWOK to speed up the proceedings of the said election.

12. Mr Dennis KWOK reminded Members that if Members used a lot of time to discuss the letter of Mr HO Kai-ming, the non-binding motions proposed by Members could not be dealt with at this meeting.

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13. Mr CHU Hoi-dick said that if the motion moved by SLW was passed by the Council, the Amendment Bill would be referred to the Manpower Panel instead of HC. He noted that SLW had suggested a way which, in SLW's own view, could get round the requirement stipulated in RoP 54(5) with regard to the consultation with the HC Chairman on resumption of the Second Reading debate on the Amendment Bill in the Council in the event that the HC Chairman for the 2019-2020 session had yet to be elected by the time the Amendment Bill was ready to resume its Second Reading debate. Mr CHU further said that as Mr HO Kai-ming was in support of the motion moved by SLW, he could not understand why Mr HO had to write to Mr Dennis KWOK and request Mr KWOK to expedite the said election to facilitate the early consideration of the Amendment Bill by HC. Mr CHU also said that Dr Priscilla LEUNG had mentioned at a media stand-up on the day of this meeting that the prolonged proceedings of the said election had delayed the enactment of the National Anthem Bill and the Administration could resort to an extraordinary means where necessary in order to apply this national law in Hong Kong. He stressed that Members from the pro-democracy camp had the full support of Hong Kong people in stopping the passage of the National Anthem Bill which was a "draconian law".

14. Expressing disagreement with Mr CHU Hoi-dick's remarks about the National Anthem Bill, Dr Priscilla LEUNG stressed that the Bill was not a "draconian law" and that the legislative intent of the Bill was to preserve the dignity of the national anthem so that members of the public would respect the national anthem. According to the Basic Law ("BL"), the national laws listed in Annex III to BL should be applied locally by way of promulgation or legislation by the Hong Kong Special Administration Region. The Government had then decided to implement the Law of the People's Republic of China on National Anthem ("the National Anthem Law") in Hong Kong by local legislation. Dr LEUNG noted that Ms Tanya CHAN had indicated to the media that Members from the pro-democracy camp would stall the operation of HC in a bid to delay the timing of the resumption of the Second Reading debate on the National Anthem Bill so that the Second Reading debate on the Bill could not be resumed in time before the end of the current legislative term. Dr LEUNG was concerned that in such circumstances, the Administration might have to consider implementing the National Anthem Law in Hong Kong by way of promulgation. Dr LEUNG also pointed out that pending the election of the Chairman and Deputy Chairman of HC for the 2019-2020 session, many matters that required

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the consideration/decision by HC (including a number of bills which were related to people's livelihood and the making of recommendations to the President on the size of the select committees and its membership) could not be dealt with. She hoped that Members from the pro-democracy camp would allow HC to get back on track as soon as possible.

15. Mr Dennis KWOK said that as it was already 4:00 pm at which a Finance Committee meeting had been scheduled to commence, he had to end the meeting.

16. The meeting ended at 4:02 pm.

Council Business Division 2
Legislative Council Secretariat
21 May 2020