

**立法會**  
**Legislative Council**

Ref : CB2/PL/HA

LC Paper No. CB(2)1416/19-20  
(These minutes have been seen  
by the Administration)

**Panel on Home Affairs**

**Minutes of meeting**  
**held on Monday, 11 May 2020, at 4:30 pm**  
**in Conference Room 3 of the Legislative Council Complex**

- Members present** :
- Hon LAU Kwok-fan, MH(Chairman)
  - Hon CHAN Chi-chuen (Deputy Chairman)
  - Hon Claudia MO
  - Hon Michael TIEN Puk-sun, BBS, JP
  - Hon Steven HO Chun-yin, BBS
  - Hon MA Fung-kwok, SBS, JP
  - Hon LEUNG Che-cheung, SBS, MH, JP
  - Hon KWOK Wai-keung, JP
  - Hon Christopher CHEUNG Wah-fung, SBS, JP
  - Dr Hon Fernando CHEUNG Chiu-hung
  - Hon IP Kin-yuen
  - Hon Alvin YEUNG
  - Hon Andrew WAN Siu-kin
  - Hon Jimmy NG Wing-ka, BBS, JP
  - Dr Hon Junius HO Kwan-yiu, JP
  - 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 HUI Chi-fung
  - Hon LUK Chung-hung, JP
  - Hon Kenneth LAU Ip-keung, BBS, MH, JP
  - Hon Vincent CHENG Wing-shun, MH, JP
  - Hon Tony TSE Wai-chuen, BBS
- Member attending** :
- Hon WU Chi-wai, MH

**Members absent** : Hon CHU Hoi-dick  
Hon KWONG Chun-yu

**Public Officers attending** : Item III

Mr Caspar TSUI Ying-wai, JP  
Secretary for Home Affairs

Ms Ida LEE Bik-sai, JP  
Deputy Director of Leisure and Cultural Services (Leisure Services)

Mrs Doris FOK LEE Sheung-ling  
Assistant Director (Leisure Services)<sup>1</sup>  
Leisure and Cultural Services Department

Item IV

Mr Jack CHAN Jick-chi, JP  
Under Secretary for Home Affairs

Miss Vega WONG Sau-wai, JP  
Deputy Director of Home Affairs (2)

Mr Alfred LEE Koon-yan  
Assistant Director of Home Affairs (5)

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

**Staff in attendance** : Miss Connie AU  
Senior Council Secretary (2) 6

Mrs Fonny TSANG  
Legislative Assistant (2) 3

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**I. Information paper(s) issued since the last meeting**  
[LC Paper Nos. CB(2)768/19-20(01) and CB(2)904/19-20(01)]

Members noted that the following papers had been issued after the last meeting:

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- (a) joint letter dated 20 March 2020 from 22 Members [LC Paper No. CB(2)768/19-20(01)]; and
- (b) information paper on "Property Management Services Authority - Proposed licensing regime for property management companies and property management practitioners" [LC Paper No. CB(2)904/19-20(01)].

**II. Items for discussion at the next meeting**

[LC Paper Nos. CB(2)913/19-20(01) and (02)]

2. The Panel agreed to discuss the following items proposed by the Administration at the next regular meeting on 8 June 2020 at 4:30 pm:

- (a) Community Care Fund; and
- (b) additional allocation of \$900 million for the Art Development Matching Grants Scheme.

**III. Amendment of Pleasure Grounds Regulation to step up control of noise nuisance in parks managed by Leisure and Cultural Services Department**

[LC Paper Nos. CB(2)724/19-20(05) and (06)]

3. At the invitation of the Chairman, the Secretary for Home Affairs ("SHA") briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)724/19-20(05)].

4. Members noted the submission provided by Mr Michael MO, member of the Tuen Mun District Council ("DC"), which was tabled at the meeting.

*(Post-meeting note: The submission was issued to members vide LC Paper No. CB(2)962/19-20(01) on 12 May 2020.)*

Discussion

*Penalties for contravention of section 25 of the Pleasure Grounds Regulation*

5. While members in general expressed support for raising the maximum fine for the offence of contravening section 25 of the Pleasure Grounds

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Regulation (Cap. 132BC) ("the Regulation") to \$10,000 as proposed by the Administration, Mr Vincent CHENG suggested that a progressive penalty system should be put in place whereby heavier penalties would be imposed on repeated offenders. Mr Andrew WAN also suggested that consideration should be given to further increasing the maximum fine level to enhance the deterrent effect.

6. SHA responded that at present, an offender of section 25 of the Regulation was liable on conviction to a maximum fine at Level 1 (\$2,000) and imprisonment for 14 days. Having considered members' requests for raising the penalty level, the Leisure and Cultural Services Department ("LCSD") had reviewed and proposed to raise the fine level under section 25 to Level 3 (maximum fine of \$10,000), which was five times the current maximum fine, and to maintain the imprisonment term of 14 days. SHA said that in coming up with the proposed penalty level, LCSD had drawn reference from the maximum fine for the offence of contravening sections 4 and 5 of the Noise Control Ordinance (Cap. 400) ("NCO") (maximum fine of \$10,000) which regulated noise from public places. SHA added that a progressive penalty system would not be incorporated in this amendment exercise.

*Acceptance of reward for music activities*

7. While members in general expressed support for the proposed new provision in section 25 to prohibit unauthorized persons from playing music, singing songs or carrying out other music activities in public pleasure grounds ("PPGs") and accepting any reward (e.g. "lai see"), some members including the Chairman and Mr Andrew WAN expressed concern as to whether the provision could be enforced effectively in situations where the reward was made through electronic means (e.g. WeChat Pay) or was not given on the spot. Mr WAN called on the Administration to be mindful of the different means by which reward could still be made to persons for their music activities when drafting the relevant amendments, and to plug possible loopholes. SHA responded that LCSD would, depending on the actual circumstances, collect evidence as far as possible for the court to determine whether a person had accepted any reward in violation of the proposed new provision.

8. Mr Kenneth LAU and Mr HUI Chi-fung shared a similar view that while noise problems in PPGs should be addressed, the proposed new provision to prohibit acceptance of reward for music activities might impede the development of street performance culture. Mr HUI said that some street performances were well received by the public and he was concerned

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that the room for survival of young people who relied on performing on the street for their livelihood might be affected. Mr LAU asked whether a person would be in contravention of the proposed new provision for obtaining reward even if the performance concerned was not causing any nuisance to others. Mr SHIU Ka-fai was of the strong view that acceptance of reward for singing activities in PPGs should be prohibited. SHA responded that the root of noise nuisance problems in some PPGs lied in the acts of accepting reward for musical performances and singing activities but at present, persons who played music, singed songs or staged performances and accepted "lai see" from members of the public in PPGs were not in breach of the Regulation. The Administration believed that the proposed new provision would be able to stop persons seeking to obtain reward through the above-mentioned activities in PPGs. SHA added that the proposed new provision did not target persons who played music or sang songs in PPGs only for self-entertainment without accepting reward. Mr SHIU Ka-chun expressed concern about the definition of self-entertainment as he noted that a number of singing groups which performed in the Tuen Mun Park also claimed to be playing music or singing songs for self-entertainment only.

*Enforcement issues*

9. Some members including Mr Andrew WAN, Mr Tony TSE, Mr WU Chi-wai and Mr SHIU Ka-fai expressed concern about the criteria adopted by LCSD in deciding whether or not the sound level of an activity conducted in a PPG was excessive and causing nuisance to others. Mr WAN considered that the relevant criteria should be specified in the Regulation. Mr WU suggested that the relevant DCs should be engaged to work out the enforcement details having regard to the situation of individual PPGs and local circumstances. Referring to paragraph 7 of the Administration's paper, Mr WU said that to require activity organizers to control the sound level of their activities in PPGs to not exceeding the background noise level for more than 10 decibels might be too stringent given the low background noise level of most PPGs. Mr SHIU said that background music was needed for activities like the playing of tai-chi and qigong. The Administration hence should not completely prohibit the use of amplifiers in PPGs.

10. SHA responded that in drawing up the guidelines for monitoring and regulating noises from activities in PPGs, LCSD had made reference to NCO regarding the regulation of noise for different venues, nature of activities and situations. Whether the noise had caused nuisance to others was mainly determined by whether it had caused annoyance that would not

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be tolerated by a reasonable person. SHA added that the Administration maintained close communication with DCs on various livelihood issues, including the tackling of noise problems in PPGs.

11. The Chairman suggested that the Administration should consider drawing up a "blacklist" of repeated offenders of section 25 of the Regulation and prohibit them from entering the PPGs concerned. Mr Andrew WAN also suggested that such repeated offenders should be prohibited from bringing amplifiers and/or musical instruments along in the relevant PPGs in order to tackle the noise nuisance problems more effectively. SHA responded that as section 32 of the Regulation had already empowered LCSD venue staff to remove persons contravening the Regulation from the venues, the proposed "blacklist" was deemed not necessary.

12. Mr SHIU Ka-chun sought details of the implementation of section 32 of the Regulation. Mr SHIU and Mr WU Chi-wai asked whether LCSD or the Police would be responsible for the enforcement of the Regulation. The Deputy Director of Leisure and Cultural Services (Leisure Services) ("DDLCS(Leisure Services)") responded that advice would be given by the venue staff immediately when the sound level from singing activities was found to be excessive. If such advice was disregarded by the singing group concerned, LCSD venue staff would take law enforcement actions in light of the actual situation and remove persons contravening the Regulation from the venue by virtue of the power under section 32 of the Regulation where necessary. DDLCS(Leisure Services) added that while LCSD was responsible for enforcing the Regulation, joint operation might be arranged with the Police as and when necessary and in particular, if issues relating to public order were involved. At the request of Mr SHIU, SHA undertook to provide the number of advice that would be given to request a person to bring down the excessive sound level from singing activities before enforcement action would be taken by LCSD officers (under section 32 of the Regulation) to remove the person concerned from the PPG.

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*(Post-meeting note: The supplementary information provided by the Administration was issued to members vide LC Paper No. CB(2)1177/19-20(01) on 9 June 2020.)*

13. Mr Andrew WAN asked whether an anonymous person would fall under the definition of "any other person" under the proposed amendments to section 25 of the Regulation. SHA responded that under the proposed amendments to section 25, if LCSD received complaints from members of the public against noise nuisance arising from musical performances or

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singing activities in PPGs, LCSD venue staff might act as prosecution witnesses in place of the anonymous person who lodged the complaint where necessary.

14. Mr Holden CHOW and Mr Vincent CHENG were concerned if LCSD had adequately prepared its venue staff to undertake the noise control enforcement work in PPGs, particularly in more complicated situations. Mr CHOW, Mr CHENG and Mr WU Chi-wai considered that sufficient training and information should be provided to the staff concerned to facilitate their enforcement work upon implementation of the proposed amendments to the Regulation. SHA responded that LCSD venue staff were experienced and well-trained to handle the day-to-day venue management issues, including noise nuisance cases, but depending on the actual circumstances, LCSD might seek assistance from other departments as and when necessary. SHA said that apart from enhancing the training of the staff concerned, LCSD would strengthen the guidelines on venue management for staff upon implementation of the proposed amendments to the Regulation.

15. Mr Tony TSE asked about the purpose of the proposed introduction of a new provision in section 25 to empower the Director of Leisure and Cultural Services to put up notices in PPGs with noise problems and stipulate the need to comply with the provisions in the playing of musical instruments and singing activities. He considered that such notices should be made available in all PPGs regardless of whether or not noise problems existed. SHA responded that with a view to tackling the noise problems in PPGs more proactively, notices stipulating the rules in relation to the prevention of noise nuisance would have to be drawn-up for individual PPGs having regard to the actual circumstances of each PPG. With the proposed provision coming into effect, any person who did not comply with the relevant stipulations would be deemed to be in breach of the Regulation.

*Consultation with the District Councils*

16. Mr IP Kin-yuen asked whether or not DCs, in particular the Tuen Mun DC and the Kowloon City DC, had been consulted on the latest proposed amendments to the Regulation. SHA responded that the Administration had consulted the Panel as well as the Chairmen and Deputy Chairmen of the 18 DCs in April 2019 on the proposed amendments. In light of the Panel members' requests for additional measures to step up the control of noise nuisance in PPGs, the Administration had reviewed the relevant provisions in the Regulation comprehensively and sought the legal advice from the Department of Justice on different proposed amendments

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before putting forth the current amendment proposal for the Panel's consideration. SHA said that the Tuen Mun DC had also discussed measures to tackle the noise problems in the Tuen Mun Park at its recent meetings. At the request of Mr IP, SHA undertook to provide information on the consultation with the Kowloon City DC regarding the proposed amendments to the Regulation including the consultation date.

*(Post-meeting note:* The supplementary information provided by the Administration was issued to members vide LC Paper No. CB(2)1177/19-20(01) on 9 June 2020.)

17. While members in general expressed support for the Administration's proposed amendments to the Regulation, Mr HUI Chi-fung was of the view that the proposed amendments could not address similar noise problems also found in other public places not under the management of LCSD (such as the area in the vicinity of the Central Pier). He considered that the Administration should have a comprehensive review on the policy regarding the regulation of noise nuisance in all public places and address the problem in a holistic manner. SHA responded that different public places were managed by different government departments and the regulation of noise in other places was governed by NCO.

#### **IV. Progress of review of the Building Management Ordinance (Cap. 344) and related administrative measures**

[LC Paper Nos. CB(2)913/19-20(03) and (04)]

18. At the invitation of the Chairman, the Under Secretary for Home Affairs ("USHA") briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)913/19-20(03)].

#### Discussion

##### *Formation of owners' corporations*

19. Speaking from his own experience, Dr Fernando CHEUNG expressed concern about the difficulties encountered by owners of large housing estates (especially those with facilities like shopping malls and club-houses) in the formation of owners' corporation ("OC") due to the high threshold which was currently set at 30% of the owners' shares in aggregate and the large number of shares owned and influenced by the major owner (e.g. the developer). Dr CHEUNG suggested that the threshold for OC formation should be relaxed and administrative measures should be put in place to



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facilitate the formation of OCs. USHA responded that under section 3A of the Building Management Ordinance (Cap. 344) ("BMO"), owners of not less than 20% of the shares in aggregate could apply to SHA for an order to convene an owners' meeting for the purpose of appointing a Management Committee ("MC") and forming an OC. In addition, under section 4 of BMO, owners of not less than 10% of the shares in aggregate could make an application to the Lands Tribunal for an order to convene an owners' meeting. That notwithstanding, the Administration noted the difficulties of the owners of some housing estates in forming OCs and there were only a few cases where sections 3A and 4 of BMO were invoked. USHA said that the Administration all along encouraged owners to form OCs to facilitate the discharge of their responsibilities in relation to building management and had been providing various support measures to facilitate owners in this regard. USHA added that the Administration had introduced the Standard Clauses and Guidelines for Deeds of Mutual Covenant ("DMC") and DMCs had to comply with the provisions therein, including the allocation of undivided shares.

*Proxy instruments*

20. Mr SHIU Ka-chun pointed out that at a recent general meeting of the OC of a housing estate in Tin Shui Wai seeking to remove members of the MC from office because some owners were dissatisfied with their performance, over 80% of the votes in opposition of the proposed resolution were proxy votes. He expressed concern about the problem of potential manipulation of proxy instruments and the lack of a mechanism to allow the representative of owners to inspect the proxy instruments. Mr SHIU suggested that consideration should be given to abolishing the mechanism of proxy instruments as they were prone to manipulation. He also asked if tenants and reporters were allowed to attend OC meetings.

21. USHA explained that owners should be responsible for the day-to-day management of their buildings. Under this principle, there was a practical need to provide for proxy instruments so that owners who were unable to attend the meetings and cast their votes personally could do so by proxies. USHA said that the Administration had proposed a series of amendments to BMO, as detailed in the Administration's paper under discussion, to improve the current proxy arrangements and to make manipulation of proxy instruments more difficult. The Deputy Director of Home Affairs (2) ("DDHA(2)") said that some OCs would, as an administrative measure, request proxies to prove their identities when attending OC meetings. DDHA(2) further said that tenants' representatives (if any) appointed under section 15 of BMO were entitled to attend OC meetings. Moreover,

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it was stipulated in paragraph 7 of Schedule 3 to BMO that the procedure at a general meeting should be as is determined by the OC and accordingly, it was for the OC concerned to decide whether persons other than owners and tenants' representative (e.g. reporters) were allowed to attend an OC meeting.

*Non-performance of management committees and powers of the Authority*

22. Referring to paragraph 44 of Annex A to the Administration's paper, Mr Alvin YEUNG expressed concern whether the proposal of empowering the Authority (i.e. SHA) to dissolve a non-performing MC and appoint an administrator could effectively address the problems in relation to the non-performance of MCs. USHA explained that currently, it could be difficult for owners to invoke the relevant provisions of BMO to dissolve a non-performing MC. The abovementioned proposal would empower the Administration to dissolve a non-performing MC at the request of not less than 10% of the owners, after warning(s) was/were given to the MC concerned, and to appoint an administrator to chair an OC meeting to re-appoint an MC, and look after the operation of the OC before a new MC was appointed by the owners. Depending on the circumstances, the Authority might appoint suitable persons such as property management companies ("PMCs") as the administrators. Mr YEUNG sought details of the warning that would be implemented. USHA said that details of the warning had yet to be worked out and the Administration would keep an open mind in this regard. In response to Mr YEUNG's further enquiry, USHA said that the Authority would only exercise this power in respect of an OC once every 12 months unless there were exceptional grounds, such as in the case where the building concerned had received repair order(s) from the Buildings Department ("BD") or fire safety direction(s) that required prompt actions but that the newly appointed MC still failed to perform. USHA further said that at present, only the MC Chairman could convene an OC meeting under paragraph 1(2) of Schedule 3 to BMO and therefore the operation of an OC could be disrupted if the office of the MC Chairman was vacant for an extended period. To address the problem, the Administration had proposed to amend BMO such that when the office of the MC Chairman was vacant, the MC Vice-chairman should convene the OC meeting in place of the MC Chairman, and where no MC Vice-chairman was elected, the MC should appoint one of its members to convene the OC meeting.

*Related administrative support measures*

23. Mr Michael TIEN said that as most MC members did not have the experience and expertise in handling "large-scale maintenance projects", the Administration should provide enhanced support for OCs such as by

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providing a "one-stop-shop" service platform so that owners need not approach individual government departments for advice and support. DDHA(2) said that the Home Affairs Department ("HAD") launched a Central Platform on Building Management ("the Central Platform") in September 2018 to assist owners in building management and "large-scale maintenance projects". The main targets of the Central Platform were owners, OCs and residents' organizations of buildings which had received notices on the Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme, repair orders and fire safety directions. DDHA(2) said that under the Central Platform, HAD would organize regular briefing sessions for owners at which representatives from relevant government departments and related organizations, including BD, the Fire Services Department, the Hong Kong Police Force, the Independent Commission Against Corruption, the Urban Renewal Authority ("URA") and the Competition Commission, would introduce their services in relation to building management and maintenance. These one-stop briefing sessions would provide a convenient way for owners to learn more about the services and schemes related to building management and maintenance, and seek advice as appropriate. The Chairman suggested that the Administration should step up the promotion of this service through different channels.

24. Noting that as at December 2019, HAD had received only 45 applications for the Building Management Dispute Resolution Service since its launch in April 2018, Mr Michael TIEN considered that the figure was on the low side and asked if this was due to limited service capacity or inadequate publicity and promotion of the service. USHA said that the figure should not be read in isolation as HAD and other relevant government departments and organizations had been providing a range of support services to owners, MCs and OCs in relation to building management and maintenance. Examples included the Pre-Meeting Advisory Service for OCs and the OCs Advisory Services Scheme provided by HAD, and the "Smart Tender" Building Rehabilitation Facilitating Services provided by URA. DDHA(2) added that in order to help resolve complicated building management disputes, HAD had also set up the Panel of Advisors on Building Management Disputes comprising professionals of different background (including lawyers, accountants, surveyors and property managers) experienced in building management matters. The Panel of Advisors would offer advice to the parties concerned through face-to-face discussions to help resolve disputes. Mr MA Fung-kwok enquired about the response to the Free Outreach Legal Advice Service on Building Management. USHA said that the Administration had received a dozen of applications so far since the service was launched in September 2019 on a pilot basis.

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*Support for owners of "three-nil" buildings*

25. Dr Junius HO enquired about the current number of "three-nil" buildings and the support provided by the Administration for owners of these buildings. USHA said that there were around 5 000 "three-nil" buildings in Hong Kong and HAD had launched the Building Management Professional Advisory Service Scheme ("BMPASS") and the Resident Liaison Ambassador Scheme ("RLA Scheme") in November 2011 to provide support services for these buildings. Under BMPASS, two PMCs were currently commissioned by HAD to provide owners of eligible aged buildings, in particular those in "three-nil" buildings, with a range of free professional advisory and follow-up services on building management (including facilitating the formation and reactivation of OCs). More than 500 OCs had been formed or reactivated by owners of these buildings since the launch of BMPASS. USHA further said that the RLA Scheme sought to establish a resident liaison network by recruiting owners or tenants who lived in "three-nil" buildings as RLAs. Around 4 000 RLAs had been recruited since the inception of the scheme. RLAs would assist in engaging residents to discuss and handle daily building management matters and they would also assist government departments in contacting residents to disseminate messages on building management-related matters. USHA added that BMPASS was well received and it would be regularized.

*Computerization of OC records*

26. Mr MA Fung-kwok expressed support for the Administration's proposal to computerize the OC records kept by the Land Registry ("LR"). He and Dr Junius HO suggested that standard templates should be provided to facilitate the filing of documents online (i.e. e-filing) and relevant support and training should be provided to OCs to help them familiarize with the new arrangements. USHA said that at present, LR kept physical OC records at its offices and the Administration was working towards the computerization of such records in order to enhance the search services provided to the public. USHA further said that the Administration would consider members' suggestions regarding the e-filing of documents.

*Legislative timetable*

27. The Chairman and Dr Junius HO urged for the early enactment of the legislative amendments to BMO in order to address wide public concern about various building management issues. Dr HO considered that the Administration should assume a more proactive role in assisting PMCs and OCs to comply with the statutory requirements, and should intervene at an

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early stage to avoid subsequent disputes. USHA said that the Administration planned to introduce the relevant legislative amendment proposals as early as possible in the next legislative term. Meanwhile, in view of the time required for the legislative amendment exercise, the Administration had introduced a number of measures to promote voluntary compliance with some of the legislative amendment proposals, including the publication of relevant revised Codes of Practice, related administrative guidelines as best practices and a checklist on procedural propriety on building management. DDHA(2) said that about 160 OCs had adopted the administrative guidelines and the Administration would also provide assistance and support to help owners and OCs in implementing the best practices.

28. The Chairman considered that 160 OCs was only a small number in Hong Kong. He called on the Administration to strengthen publicity to encourage voluntary adoption of the best practices. Dr Junius HO queried the effectiveness of promoting voluntary compliance and opined that legislation should be enacted as soon as possible to make compliance compulsory. DDHA(2) explained that while failure to observe the Codes of Practice was not liable to criminal proceedings, any such failure might be relied upon as tending to establish or to negative any liability which was in question in proceedings for an offence under BMO. She further said that in the light of the experience of voluntary compliance, opportunity would be taken to review the proposals for necessary refinements and enhanced operability.

**V. Any other business**

29. There being no other business, the meeting ended at 6:23 pm.

Council Business Division 2  
Legislative Council Secretariat  
5 August 2020