

**立法會**  
**Legislative Council**

LC Paper No. CB(1)546/20-21  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/1/20/2

**Bills Committee Formed on 16 October 2020 to Study the  
Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018**

**Minutes of the second meeting  
held on Monday, 16 November 2020, at 2:30 pm  
in Conference Room 2 of the Legislative Council Complex**

**Members present** : Hon Steven HO Chun-yin, BBS (Deputy Chairman)  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, GBS, JP  
Hon KWOK Wai-keung, JP  
Hon Elizabeth QUAT, BBS, JP  
Hon Martin LIAO Cheung-kong, GBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon SHIU Ka-fai, JP  
Dr Hon CHENG Chung-tai  
Hon Vincent CHENG Wing-shun, MH, JP

**Members absent** : Hon Frankie YICK Chi-ming, SBS, JP (Chairman)  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Junius HO Kwan-yiu, JP  
Hon Wilson OR Chong-shing, MH  
Dr Hon Pierre CHAN  
Hon Tony TSE Wai-chuen, BBS, JP

**Public Officers  
attending**

**: For item III**

Mr TSE Chin-wan, BBS, JP  
Under Secretary for the Environment

Mr Bruno LUK  
Deputy Director of Environmental Protection (Special  
Assignments)  
Environmental Protection Department

Mr Kenneth CHAN  
Assistant Director (Special Assignments)  
Environmental Protection Department

Mr Ken WONG  
Assistant Director (Environmental Compliance)  
Environmental Protection Department

Mr CHENG Tak-kuen  
Assistant Director (Waste Infrastructure Planning)  
Environmental Protection Department

Mr Lawrence LAU  
Principal Environmental Protection Officer (Community  
Relations) (Acting)  
Environmental Protection Department

Miss Jessica CHENG  
Senior Administrative Officer (Special Duties Division)  
Environmental Protection Department

Mr LAI Siu-kwong  
Senior Superintendent (Municipal Solid Waste  
Charging)/Acting Assistant Director (Operations)  
Food and Environmental Hygiene Department

Mr Gilbert MO  
Deputy Law Draftsman  
Department of Justice

**Clerk in attendance :** Ms Angel SHEK  
Chief Council Secretary (1)1

**Staff in attendance** : Ms Anita SIT  
Assistant Secretary General 1

Mr Cliff IP  
Assistant Legal Adviser 8

Mr Jason KONG  
Senior Council Secretary (1)1

Miss Bowie LAM  
Council Secretary (1)1

Mr Frankie WOO  
Senior Legislative Assistant (1)3

Miss Mandy POON  
Legislative Assistant (1)1

Miss Yannes HO  
Legislative Assistant (1)7

Ms PANG Yin-shan  
Clerical Assistant (1)1

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Action

**I. Election of Chairman (and Deputy Chairman, if required)**

Election of Chairman

Mr Abraham SHEK, the member who had the highest precedence among those present at the meeting, presided over the election of Chairman of this Bills Committee. He invited nominations for the chairmanship.

2. Mr Frankie YICK was nominated by Mr SHIU Ka-fai and the nomination was seconded by Mr CHAN Hak-kan. As Mr Frankie YICK was absent, Mr SHIU Ka-fai stated that he had secured Mr YICK's acceptance of the nomination. There being no other nominations, Mr Frankie YICK was declared Chairman of this Bills Committee.

3. Assistant Secretary General 1 ("ASG1") reminded members that they should elect a member to act as chairman during Mr Frankie YICK's absence before proceeding to deal with other business on the agenda. The member elected should preside over the current meeting until the chair was taken over by the Deputy Chairman of this Bills Committee after the deputy chairmanship election.

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4. Mr Steven HO proposed that Mr Abraham SHEK continue to preside over the meeting until the chair was taken over by another member according to the established procedure. Members did not raise objection.

Election of Deputy Chairman

5. ASG1 pointed out that the applications for late membership from Dr Junius HO and Dr Pierre CHAN had been submitted to this Bills Committee before the vacation of the offices of Chairman and Deputy Chairman (formerly held by Mr Kenneth LEUNG and Mr HUI Chi-fung respectively). As both the Rules of Procedure ("RoP") and House Rules ("HR") were silent on such a situation and there was no precedent case in the Legislative Council ("LegCo"), it would be for this Bills Committee to decide whether the two applications for late membership should be considered before or after the deputy chairmanship election.

6. Mr Martin LIAO suggested that this Bills Committee proceed to the election of Deputy Chairman first in accordance with the original order of agenda items. Mr Tommy CHEUNG spoke in support of the suggestion. As no member raised objection or expressed other views, Mr Abraham SHEK announced that this Bills Committee should proceed to the election of Deputy Chairman first. He then invited nominations for the office. Mr Steven HO was nominated by Mr Tommy CHEUNG and the nomination was seconded by Mr CHAN Hak-kan. Mr Steven HO accepted the nomination. There being no other nominations, Mr Steven HO was declared Deputy Chairman of this Bills Committee. Mr Steven HO then took the chair.

Bills Committee's scrutiny work

7. Mr CHAN Hak-kan requested that the Assistant Legal Adviser ("ALA") be invited to advise on the following issue: notwithstanding that this Bills Committee had decided at the meeting on 3 November 2020 to continue the scrutiny work on the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 ("the Bill") on the basis of the deliberations made by the Bills Committee on Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 ("the former Bills Committee") ("the 3 November decision"), whether this Bills Committee should, to avoid any legal challenge to its decision(s), start the scrutiny work on the Bill afresh, given that this Bills Committee was a new bills committee independent of the former Bills Committee, with substantial difference in membership ("the difference in membership").

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8. ALA advised that this Bills Committee might wish to take the following non-exhaustive factors into account when deciding whether it should conduct the scrutiny work on the Bill in the manner stated in the 3 November decision:

- (a) the extension of a term of LegCo was unprecedented, so that there was no precedent case to follow;
- (b) according to RoP 79C, "[t]he agenda of a meeting of any committee shall be determined by its chairman (任何委員會的會議議程須由其主席決定), except where its deputy chairman (if any) has made a determination in accordance with Rule 79B";
- (c) according to HR 21(i)(iii), "[t]he following guidelines in the processing of bills should be followed (處理法案的工作應按下述指引進行)... reopening of discussion on issues on which there has been full deliberation should not be allowed (已充分商議的事項不應重新展開討論)". By comparing the words "should (應)" and "should not (不應)" in HR 21(i)(iii) with the word "shall (須)" in HR 21(j), it appeared that HR 21(i)(iii) could be construed as merely a guideline (i.e. not imposing a mandatory requirement), which a Bills Committee could decide to follow or otherwise after careful consideration; and
- (d) in determining the applicability of HR 21(i)(iii) to the issue in question, this Bills Committee might also wish to consider whether there had already been full deliberation on how to conduct the scrutiny work on the Bill. According to the advice given by the Acting Legal Adviser at the House Committee meeting on 16 October 2020, it would be for this Bills Committee to decide whether to start the scrutiny work afresh or to continue with the scrutiny work of the former Bills Committee having regard to relevant considerations, such as the difference in membership and whether the Administration would propose amendments to the Bill. At the said House Committee meeting, some Members also expressed the view that an update on the Administration's position on the Bill should be sought. However, it appeared that this Bills Committee had not considered the Administration's latest position on the Bill (including whether the Administration would propose amendments) before it made the 3 November decision.

9. At the Deputy Chairman's invitation, the Clerk supplemented that according to the guideline under HR 24(n), the decisions of a committee should

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not be reopened for discussion, unless with the permission of the committee.

10. Mr CHAN Hak-kan sought further clarification on whether this Bills Committee must abide by the 3 November decision unless the decision was superseded by a new decision of this Bills Committee.

11. The Deputy Chairman said that given the substantial change in the membership of this Bills Committee (including chairmanship and deputy chairmanship) recently, he personally held that this committee should reconsider how to conduct the scrutiny work on the Bill. However, it would be more prudent for the Chairman to preside over relevant proceedings of this Bills Committee at the next meeting.

12. Mr YIU Si-wing agreed that the Administration's views should be sought and a decision, if any, in respect of the issue raised by Mr CHAN Hak-kan should be made at the next meeting to be presided over by the Chairman. Mr Tommy CHEUNG expressed a similar view.

13. The Deputy Chairman advised that after this Bills Committee's consideration of the two applications for late membership (under agenda item II), he would invite members and the Administration to give views on issues related to this Bills Committee's scrutiny work (under agenda item III); and he would convey the views to the Chairman after this meeting.

## **II. Applications for late membership**

(LC Paper No. CB(1)124/ — Dr Hon Junius HO Kwan-yiu's letter  
20-21(01) dated 3 November 2020 (Chinese  
version only)

LC Paper No. CB(1)148/ — Dr Hon Pierre CHAN's letter dated  
20-21(01) 6 November 2020 (Chinese version  
only))

14. Members agreed to accept the applications for late membership from Dr Junius HO and Dr Pierre CHAN.

## **III. Meeting with the Administration**

(LC Paper No. CB(1)187/ — Information note on "Waste Reduction  
20-21(01) and Recycling Complementary  
Measures Launched by Environmental  
Protection Department and their

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Progress" provided by the Administration)

Clause-by-clause examination of the Bill

(LC Paper No. CB(3)97/ — The Bill  
18-19

LC Paper No. CB(1)205/ — Marked-up copy of the Bill prepared by  
18-19(01) the Legal Service Division (Restricted to Members)

LC Paper No. CB(1)205/ — Assistant Legal Adviser's letter dated  
18-19(02) 4 December 2018 to the Administration

LC Paper No. CB(1)396/ — Administration's reply to Assistant  
18-19(01) Legal Adviser's letter dated 4 December 2018

LC Paper No. CB(1)875/ — Assistant Legal Adviser's letter dated  
18-19(03) 25 March 2019 to the Administration

LC Paper No. CB(1)1000/ — Administration's reply to Assistant  
18-19(04) Legal Adviser's letter dated 25 March 2019

File Ref: EP CR/9/65/3 — Legislative Council Brief

LC Paper No. LS13/18-19 — Legal Service Division Report)

Relevant paper

(LC Paper No. CB(1)849/ — Report of the Bills Committee on  
19-20 Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018)

15. The Deputy Chairman invited the Administration to give views on the scrutiny of the Bill.

16. The Under Secretary for the Environment advised that in view of the difference in membership, regardless of the final decision on how this Bills Committee would conduct its scrutiny work, the Administration was prepared to give a briefing on the key features of the proposed municipal solid waste

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charging scheme and the Bill so as to refresh the knowledge of members and give a general introduction for those who did not join the former Bills Committee about the Bill, before proceeding to the clause-by-clause examination of the Bill.

17. Mr CHAN Hak-kan suggested that the Administration should consider seeking the advice of the Department of Justice on whether this Bills Committee's work should start afresh to reduce the risk of legal challenge.

18. Mr YIU Si-wing, Mr Tommy CHEUNG and Mr SHIU Ka-fai considered that the 3 November decision should be reopened for discussion so as to reduce the risk of legal challenge and ensure fair participation of members in the scrutiny of the Bill.

19. Mr CHUNG Kwok-pan considered that clashing of the meetings of this Bills Committee with those of other LegCo committees should be avoided as far as practicable.

20. The Deputy Chairman concluded that he would convey the views expressed by members and the Administration at this meeting to the Chairman; and it would be for the Chairman to consider the arrangements for the next meeting.

21. The meeting ended at 3:04 pm.

*(An index of the meeting proceedings is attached at the **Annex**.)*



**Bills Committee Formed on 16 October 2020 to Study  
the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018**

**Proceedings of the second meeting  
on Monday, 16 November 2020, at 2:30 pm  
in Conference Room 2 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
<b><i>Agenda Item I – Election of Chairman (and Deputy Chairman, if required)</i></b>			
000449 – 001026	Mr Abraham SHEK Mr SHIU Ka-fai Mr CHAN Hak-kan Assistant Secretary General 1 Mr Steven HO Mr Martin LIAO Mr Tommy CHEUNG	Election of Chairman and Deputy Chairman	
001027 – 002750	Deputy Chairman Mr CHAN Hak-kan Assistant Legal Adviser Clerk Mr Tommy CHEUNG Mr YIU Si-wing	Expression of concerns and views in relation to the manner in which this Bills Committee would conduct the scrutiny work on the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 ("the Bill").	
<b><i>Agenda Item II – Applications for late membership</i></b>			
002751 – 002819	Deputy Chairman	Acceptance of applications for late membership	
<b><i>Agenda Item III – Meeting with the Administration</i></b>			
002820 – 003841	Deputy Chairman Administration Mr CHAN Hak-kan Mr Tommy CHEUNG Mr YIU Si-wing Mr CHUNG Kwok- pan Mr SHIU Ka-fai	Expression of views in relation to the manner in which this Bills Committee would conduct the scrutiny work on the Bill.	