

立法會
Legislative Council

LC Paper No. CB(2)1379/20-21

Ref : CB2/H/5/20

House Committee of the Legislative Council

**Minutes of the 32nd meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 13 August 2021**

Members present :

Hon Starry LEE Wai-king, SBS, JP (Chairman)
Hon MA Fung-kwok, GBS, JP (Deputy Chairman)
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, SBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBM, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Michael TIEN Puk-sun, BBS, JP
Hon Steven HO Chun-yin, BBS, JP
Hon YIU Si-wing, SBS
Hon CHAN Han-pan, BBS, JP
Hon Alice MAK Mei-kuen, BBS, JP
Hon Christopher CHEUNG Wah-fung, SBS, 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, GBS, MH, JP
Hon CHUNG Kwok-pan
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 Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan, JP

Dr Hon Pierre CHAN
Hon CHAN Chun-ying, JP
Hon CHEUNG Kwok-kwan, JP
Hon LUK Chung-hung, JP
Hon LAU Kwok-fan, MH, JP
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon Vincent CHENG Wing-shun, MH, JP
Hon Tony TSE Wai-chuen, BBS, JP

Members absent :

Hon Frankie YICK Chi-ming, SBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon KWOK Wai-keung, JP

Clerk in attendance :

Miss Flora TAI Clerk to the House Committee

Staff in attendance :

Ms Dora WAI	Acting Secretary General
Mr Timothy TSO	Acting Legal Adviser
Ms Anita SIT	Assistant Secretary General 1
Ms Miranda HON	Assistant Secretary General 3
Mr Matthew LOO	Assistant Secretary General 4
Ms Clara TAM	Acting Senior Assistant Legal Adviser 2
Miss Rachel DAI	Acting Senior Assistant Legal Adviser 3
Ms Alice LEUNG	Chief Council Secretary (2)5
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
Miss Evelyn LEE	Assistant Legal Adviser 10
Miss Connie AU	Senior Council Secretary (2)5
Mr Richard WONG	Senior Council Secretary (2)6
Miss Michelle TANG	Council Secretary (2)5
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)6

Action

I. Confirmation of minutes of meeting

Minutes of 31st meeting held on 23 July 2021

(LC Paper No. CB(2)1355/20-21)

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. Legal Service Division report on subsidiary legislation gazetted on 23 July 2021

(LC Paper No. LS103/20-21)

3. At the invitation of the Chairman, Acting Legal Adviser ("Acting LA") briefed Members on the report prepared by the Legal Service Division ("LSD") on six items of subsidiary legislation (i.e. L.N. 128 to L.N. 133) which were gazetted on 23 July 2021 and would be tabled in Council on 18 August 2021.

4. Members did not raise any questions on L.N. 128 to L.N. 133.

IV. Legal Service Division report on subsidiary legislation gazetted on 6 August 2021

(LC Paper No. LS105/20-21)

5. At the invitation of the Chairman, Acting LA briefed Members on the report prepared by LSD on the Admission and Registration (Amendment) Rules 2021 (Commencement) Notice (L.N. 138) which was gazetted on 6 August 2021 and would be tabled in Council on 18 August 2021.

6. Members did not raise any questions on L.N. 138.

V. Legal Service Division report on subsidiary legislation gazetted on 10 August 2021

(LC Paper No. LS106/20-21)

7. At the invitation of the Chairman, Acting LA briefed Members on the report prepared by LSD on eight items of subsidiary legislation (i.e. L.N. 139 to L.N. 146) which were gazetted on 10 August 2021 and would be tabled in Council on 18 August 2021.

8. Mr YIU Si-wing and Dr CHENG Chung-tai considered it necessary to study in detail the eight items of subsidiary legislation (i.e. L.N. 139 to L.N. 146) which related to the prevention and control of disease. The Chairman said that in accordance with the arrangement agreed by the House Committee ("HC") at its previous meeting, the eight items of subsidiary legislation should be studied by the Subcommittee on Subsidiary Legislation Relating to the Prevention and Control of Disease.

9. The Chairman reminded Members that the deadline for amending the above 15 items of subsidiary legislation (i.e. L.N. 128 to L.N. 133 and L.N. 138 to L.N. 146) would be the Council meeting of 15 September 2021, or that of 6 October 2021 if extended by a resolution of the Council.

VI. Business for the Council meeting of 18 August 2021

(a) Laying of Papers on the Table of the Council

Report No. 24/20-21 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2)1357/20-21)

10. The Chairman said that the Report covered 17 items of subsidiary legislation and the period for amending them would expire at the Council meeting of 18 August 2021. The Chairman informed Members that as several Members had indicated their intention to speak on the Fire Service (Installations and Equipment) (Amendment) Regulation 2021 (L.N. 73) and seven items of subsidiary legislation relating to the implementation of the new inspection regime of the Companies Register under the Companies Ordinance (i.e. L.N. 95 to L.N. 101), she would, in her capacity as the HC Chairman, move a motion to take note of the Report in relation to these eight items of subsidiary legislation at the meeting. She proposed that the debate on the eight items of subsidiary legislation be divided into two sessions, one covering L.N. 73 and the other covering L.N. 95 to L.N. 101. Members agreed.

11. The Chairman reminded Members that the duration of the debate should be not more than two hours. Each Member could speak once in each session for a maximum of five minutes.

(b) **Questions**

(LC Paper No. CB(3)862/20-21)

12. The Chairman said that the questions approved by the President to be asked at the meeting had already been issued to Members.

(c) **Government Bill - First Reading and Second Reading (debate to be adjourned)**

13. The Chairman said that the National Flag and National Emblem (Amendment) Bill 2021 would be presented to the Council at the meeting, and HC would consider the Bill at its meeting on 20 August 2021.

(d) **Government Motion**

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

(e) **Member's Bill - Second Reading (debate to resume), consideration by committee of the whole Council and Third Reading**

15. The Chairman said that the Second Reading debate on the Organized and Serious Crimes (Amendment) Bill 2021 would be resumed at the meeting.

(f) **Members' Motions**

1. **Motion on "Fully seizing the national development opportunities to give play to Hong Kong's unique advantages in the Guangdong-Hong Kong-Macao Greater Bay Area" to be moved by Hon CHUNG Kwok-pan**

(LC Paper No. CB(3)844/20-21)

2. **Motion on "Formulating sports policy and development blueprint over the coming decade" to be moved by Hon Vincent CHENG**

(LC Paper No. CB(3)843/20-21)

16. The Chairman said that the above motions would be dealt with at the meeting.

VII. Business for the Council meeting of 25 August 2021

(a) Questions

(LC Paper No. CB(3)846/20-21)

17. The Chairman said that a list setting out the Members who had been allocated question slots for the meeting had already been issued to Members.

(b) Government Bill - First Reading and Second Reading (debate to be adjourned)

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

(c) Government Motion

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

(d) Members' Motions

1. **Motion on "Protecting the rights and interests of platform workers" to be moved by Hon LUK Chung-hung**
(LC Paper No. CB(3)854/20-21)

2. **Motion on "Responding decisively to foreign countries' interference in Hong Kong's affairs" to be moved by Hon Paul TSE**
(LC Paper No. CB(3)855/20-21)

20. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above two motions would be Wednesday, 18 August 2021.

Report of HC on Consideration of Subsidiary Legislation and Other Instruments

21. The Chairman invited Members to note that there was one item of subsidiary legislation the period for amendment of which would expire at the Council meeting of 25 August 2021. A draft Report of HC on Consideration of Subsidiary Legislation and Other Instruments covering this item of subsidiary legislation would be issued to Members later. She reminded Members to indicate their intention by 5:00 pm on Tuesday,

17 August 2021, should they wish to speak on that item of subsidiary legislation.

VIII. Advance information on business for the Council meeting of 1 September 2021

Government Bill - First Reading and Second Reading (debate to be adjourned)

22. The Chairman said that the Supplementary Appropriation (2020-2021) Bill would be presented to the Council at the meeting, and HC would consider the Bill at its meeting on 3 September 2021.

IX. Reports of Bills Committees and subcommittees

(a) Report of the Bills Committee Formed on 16 October 2020 to Study the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 *(LC Paper No. CB(1)1189/20-21)*

23. Mr Steven HO, Deputy Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Mr HO said that in response to the views of members of the Bills Committee, the Administration had agreed that the preparatory period to be put in place before the commencement of the relevant legislation would be changed from the originally proposed period of 12 to 18 months to a period of at least 18 months, so as to provide sufficient time for various stakeholders to prepare for the implementation of municipal solid waste charging. In respect of members' concerns about the legal responsibilities of members of the public and frontline cleaning staff, etc., the Administration would propose amendments to the Bill to make the provisions relating to the newly created offences in relation to the mandatory use of designated bags/designated labels and the related exemptions clearer and more comprehensible.

24. Members noted that the Bills Committee agreed to the amendments proposed by the Administration and would not propose any amendments to the Bill. The Bills Committee had no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 25 August 2021.

**(b) Report of the Bills Committee on Ocean Park Corporation
(Amendment) Bill 2021**

(LC Paper No. CB(4)1336/20-21)

25. Mr Jimmy NG, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Members noted that neither the Administration nor the Bills Committee would propose any amendments to the Bill and that the Bills Committee raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 25 August 2021.

**(c) Report of the Bills Committee on Legal Practitioners
(Amendment) Bill 2021**

26. Ms YUNG Hoi-yan, Chairman of the Bills Committee, made a verbal report on the deliberations of the Bills Committee. She said that the Bill sought to amend section 31A of the Legal Practitioners Ordinance (Cap. 159) to enable legal officers who were not barristers ("legal officers (non-barristers)") to be eligible for appointment as Senior Counsel ("SC") upon satisfying the relevant eligibility requirements. Legal officers referred to officers defined in section 2 of the Legal Officers Ordinance (Cap. 87) and persons deemed to be legal officers for the purposes of Cap. 87. The Bill did not seek to change the eligibility requirements or other aspects relating to the appointment of SC under Cap. 159.

27. Ms YUNG further said that the Bills Committee had held two meetings and had detailed discussions on the Bill. Members of the Bills Committee noted that the Bill proposed that legal officers (non-barristers) who were appointed as SC would only be entitled to use the title of SC when holding office as a legal officer. Some members of the Bills Committee considered that the proposal was against the principle of equal treatment for legal officers who were barristers and those who were not and the principle of merit-based selection, and it would not be conducive to retaining legal officers (non-barristers) to serve in the Government. These members expressed the view that as the Bill proposed that legal officers (non-barristers) who were appointed as SC should satisfy the substantive eligibility requirements for appointment as SC and be appointed by the Chief Justice of the Court of Final Appeal under the same procedures, these legal officers should be allowed to retain the title of SC after leaving the government service.

28. Ms YUNG advised that members of the Bills Committee had made various suggestions with a view to allowing legal officers (non-barristers) who were appointed as SC to retain the title of SC after leaving the government service. These suggestions included (a) creating a new title, apart from the title of SC, in recognition of the ability and in-depth knowledge of the law demonstrated by a legal officer (non-barrister) handling advocacy work; and (b) offering means to facilitate legal officers (non-barristers) who were appointed as SC to transfer to barristers before leaving the government service, so that they could continue to retain the title of SC after leaving the government service.

29. Ms YUNG further advised that the Administration had responded that while acknowledging the concerns expressed by members of the Bills Committee, it stressed that the proposal under the Bill, on the one hand, would allow legal officers who satisfied the substantive eligibility requirements but were not admitted as barristers to receive a fair recognition and have an opportunity to be appointed as SC, and on the other hand it would not affect any rights of the legal practitioners in the private sector nor affect the professional demarcation between the barristers' and solicitors' branches as legal services providers. The Administration also pointed out that it might cause confusion to the public if legal officers (non-barristers) could retain the title of SC after leaving the government service.

30. Ms YUNG also advised that the issues of concern raised and discussed by the Bills Committee during the course of scrutiny included (a) the effectiveness of the Bill in retaining legal officers; (b) the regulation of the conduct of the legal officers (non-barristers) who were appointed as SC; (c) the relationship between the Administration and the legal professional bodies in appointing legal officers (non-barristers) as SC; (d) the relevant experience in other common law jurisdictions; (e) the eligibility and procedures for appointment of honorary SC; (f) the regulation of professional bodies by the Government, etc. Some members of the Bills Committee held the view that the Administration should consider if solicitor advocates in the private practice who satisfied the relevant eligibility requirements should be given an opportunity to be appointed as SC. There was also a view that there should no longer be a demarcation between the barristers' and solicitors' branches in the long run.

31. Ms YUNG further said that at the meetings of the Bills Committee, the Administration had responded to the enquiries raised by members of and the Legal Adviser to the Bills Committee in respect of the clauses of the Bill. The Administration had undertaken to provide information to

elucidate (a) the number of legal officers who were currently working in the Government and eligible for appointment as SC; and (b) the turnover rate of legal officers (including barristers and non-barristers) with not less than 10 years of advocacy experience in the past five years.

32. Members noted that the Bills Committee had completed its work and raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 25 August 2021. Members also noted that neither the Administration nor the Bills Committee would propose any amendments to the Bill and that the deliberations of the Bills Committee would be set out in detail in its written report to be submitted to HC in due course.

33. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above three Bills would be Monday, 16 August 2021.

**(d) Report of the Subcommittee on Financial Institutions
(Resolution) (Contractual Recognition of Suspension of
Termination Rights — Banking Sector) Rules**
(LC Paper No. CB(1)1187/20-21)

34. Mr Holden CHOW, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Mr CHOW said that members of the Subcommittee generally supported the Rules and that neither the Subcommittee nor the Administration would propose any amendments to the Rules.

35. The Chairman reminded Members that the period for amending the Rules would expire at the Council meeting of 25 August 2021, and that the deadline for giving notice of amendments, if any, would be Wednesday, 18 August 2021.

X. Position on Bills Committees and subcommittees
(LC Paper No. CB(2)1356/20-21)

36. The Chairman said that as at 12 August 2021, there were 13 Bills Committees, six subcommittees under HC and eight subcommittees on policy issues under Panels in action.

XI. Any other business

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

Council Business Division 2
Legislative Council Secretariat
18 August 2021