

LCQ10: Taking forward legislative process for bills

Following is a question by the Hon Elizabeth Quat and a written reply by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in the Legislative Council today (April 29):

Question:

From October last year to mid-April this year, the House Committee (HC) of this Council convened 15 meetings but its chairman and deputy chairman for the new legislative session have yet to be elected, rendering HC being unable to deal with the Legislative Council (LegCo) business as normal. There are comments that with as many as 14 bills and more than 80 items of subsidiary legislation not being scrutinised and followed up, a substantial amount of legislative work involving the economy, people's livelihood and social development cannot proceed, and the normal operation of Hong Kong society has been seriously impeded as a result. In this connection, will the Government inform this Council:

(1) given that in January this year, this Council passed a motion moved by the Secretary for Labour and Welfare of referring the Employment (Amendment) Bill 2019 to the Panel on Manpower instead of HC, whether the Government has, by drawing reference from such practice, examined how the legislative process for bills can continue

(2) regarding those bills the scrutiny of which has been completed by the bills committees and the resumption of the Second Reading debate on which is pending, of the Government's specific measures to facilitate the completion of the legislative process for such bills within the current LegCo term; and

(3) whether it has assessed the impacts on the overall operation of society to be brought about by the eventuality of the aforesaid 14 bills lapsing because the legislative process for them cannot be completed at the end of the current LegCo term; if so, set out the contents of the bills, the affected groups/sectors and the relevant impacts by name of the bill?

Reply:

President,

The House Committee (HC) is an important part of the Legislative Council (LegCo) machinery, serving the purpose of preparing for meetings of the Council and considering matters relating to the business of the Council. One important function of HC is to scrutinise bills introduced into the Council and subsidiary legislation tabled at Council meetings or presented to the Council for approval. HC may also form Bills Committees to scrutinise bills,

or appoint subcommittees to study some of the subsidiary legislation in greater detail. HC would then monitor the progress of the Bills Committees and subcommittees concerned. However, since October last year up to and including last Friday (April 24), while HC has already convened 16 meetings for over 30 hours, it has yet to elect its chairman and deputy chairman for the current session. This has brought HC to a complete standstill and rendered HC unable to function normally. In consultation with the Judiciary and the bureaux concerned, our consolidated reply to the three-part question is as follows.

Under normal circumstances, according to the Rules of Procedure (RoP), when the public officer in charge of a bill has spoken on a motion that the bill be now read the second time, the debate shall be adjourned and the bill shall be referred to HC. HC may consider whether to form a Bills Committee to scrutinise the bill or cause it to be considered in such other manner as HC thinks fit.

After taking into consideration all relevant factors, the President of LegCo, on January 9, 2020, gave consent for the Secretary for Labour and Welfare to move a motion under RoP 54(4) that the Second Reading debate of the Employment (Amendment) Bill 2019 be adjourned and the Bill be referred to the Panel on Manpower instead of HC. The motion was subsequently passed at the Council meeting on January 16. The arrangement of referring the Employment (Amendment) Bill 2019 to the Panel on Manpower is not an established practice, but it allowed the legislative work to proceed in accordance with the said provisions of RoP. As mentioned in the reply of the President of LegCo on January 15, 2020 to a letter from 22 Members, after the Bill has been discussed by the Panel on Manpower, if the Secretary for Labour and Welfare seeks to resume the Second Reading debate of the Bill in the future, the President of LegCo would, as always, deal with the matter in accordance with the relevant provisions of RoP.

As at April 28, 2020, LegCo is processing 26 bills introduced by the Government, including 11 bills which have gone through the First Reading and for which Bills Committees have been formed in the past two sessions, and another 15 bills which were introduced in the current legislative session.

Among the 15 bills introduced into the Council by the Government in the current session, apart from the Appropriation Bill 2020 and the above-mentioned Employment (Amendment) Bill 2019, which has been referred to the Panel on Manpower for handling, the legislative process of the remaining 13 bills has come to a halt after the First Reading. The reason is that since these 13 bills have been referred to HC in accordance with RoP 54(4), we cannot follow the procedure in handling the Employment (Amendment) Bill 2019 by referring them to the designated Panels. As HC is at a standstill, it cannot decide whether Bills Committees should be formed to scrutinise the bills. Most of these bills are closely related to the economy and people's livelihood. These include the Inland Revenue (Amendment) (Tax Concessions) Bill 2020 which aims at reducing salaries tax, tax under personal assessment and profits tax for year of assessment 2019/20; the Rating (Amendment) Bill 2019 which aims to introduce Special Rates on vacant first-hand private

residential units with a view to encouraging developers to expedite the supply of completed first-hand private residential units in the market; the Pharmacy and Poisons (Amendment) Bill 2019 which aims to introduce a clear and dedicated regulatory framework on the research and therapeutic use of Advanced Therapy Products in order to safeguard public health and facilitate their development; and the Mandatory Provident Fund Schemes (Amendment) Bill 2019 which aims to give explicit power to the Mandatory Provident Fund Authority to set up a wholly owned subsidiary to take forward the eMPF Platform so as to create room for fee reduction in the long run which can benefit about 4.3 million scheme members.

As regards the remaining 11 bills which have gone through the First Reading and for which Bills Committees have been formed in the preceding two sessions, the Bills Committees have completed scrutiny of seven of them and the resumption of the Second Reading debate on those bills in the Council is pending. These seven bills include the Hotel and Guesthouse Accommodation (Amendment) Bill 2018, the Fire Safety (Industrial Buildings) Bill, the National Anthem Bill, the Trade Marks (Amendment) Bill 2019, the Broadcasting and Telecommunications Legislation (Amendment) Bill 2019, the Occupational Retirement Schemes (Amendment) Bill 2019 and the Discrimination Legislation (Miscellaneous Amendments) Bill 2018.

All the bills which cannot complete the scrutiny process and be passed before the end of the current term of LegCo will lapse. If the impasse of HC continues, all efforts of the Government, LegCo and various stakeholders made in formulating these policies will be wasted, with serious implications on the economy, social development and people's livelihood. The failure of HC to deal with the above 13 bills and the Employment (Amendment) Bill 2019 will impact on different sectors of society to varying degrees. The details are set out in Annex.

The Government strongly urges for the early election of HC's chairman and deputy chairman so that HC can resume its normal operation and decide whether Bills Committees will be formed to scrutinise the bills in accordance with the established procedures. The Government will continue to fully co-operate with LegCo in the consideration of the bills. We also hope that Members will make efficient use of the meeting time to complete the scrutiny of the huge backlog of bills to enable their early passage before the end of the current term of LegCo.