

**Administration's Responses to Points raised on 2 May 2001
by Members of the Bills Committee
on the Chief Executive Election Bill**

(for submission to the Bills Committee meeting to be held on 15 May 2001)

Polling date

Q1: Whether the Administration's revised proposal will work in subsequent CE elections? Please provide information on the dates of the Easter holidays in the respective years of election.

A1: Our proposal that the CE election should be held on the first Sunday 95 days before the office of the CE becomes vacant will work in the next five CE elections. The information on Easter holidays for the next five CE elections is set out in the following table –

Year	Easter holidays	First Sunday 95 days before 1 July	Does the date fall on the Easter Sunday?
2002	29 March – 1 April	24 March	No
2007	6 – 9 April	25 March	No
2012	6 – 9 April	25 March	No
2017	14 – 17 April	26 March	No
2022	15 – 18 April	27 March	No

*Note : The Easter holidays are quoted from the web site
“<http://www.ely.anglican.org/cgi-bin/easter>”.*

Q2: For the first CE election, how many days did it take for the Central People's Government to appoint the successful candidate as the CE?

A2: The first CE election was held on 11 December 1996. The Central People's Government appointed the successful candidate as the CE five days afterwards on 16 December 1996.

Eligibility criteria for being a candidate for the CE election

Q3: Will the Administration consider disqualifying senior judicial officers from running in the CE election forever, even if they have resigned or retired?

A3: In the absence of lawful justification, the proposal would run foul of the protection of political rights guaranteed by the human rights provisions of the Basic Law and Article 21 of the Hong Kong Bill of Rights Ordinance, in particular 21(a), as it would appear that the proposal is an unreasonable restriction on judicial officers' right and opportunity to take part in the conduct of public affairs directly after they have severed their links with the Judiciary. Even if it is accepted that the proposal has a legitimate purpose and that the proposal is a rational means of achieving that purpose, the effect of the ban would not be proportionate.

Clause 4

Q4: What is the legal basis for interpreting that the CPG has a power to revoke the appointment of CE as the Basic Law makes no reference to CPG's power in this respect?

A4: The power of the CPG to revoke an appointment flows from the provisions of the Basic Law. Under BL 12, the HKSAR is a local administrative region of the PRC, which apart from enjoying a high degree of autonomy comes directly under the CPG. The power to appoint the Chief Executive rests with the CPG (BL 15, 45 and Annex I). The Chief Executive is accountable to the CPG (BL 43). The procedure under BL 73(9) provides for the impeachment of a CE. Where a motion of impeachment is passed by the necessary majority it must be reported to the CPG for a decision. In this context the "decision" is a decision to revoke the appointment of a CE.

Furthermore, according to BL 52, the CE must resign under the specified circumstances. If the CE refuses to resign, the ultimate enforcement will be through the impeachment procedure under BL 73(9) which requires a decision by the CPG to revoke the appointment of a CE.

Clause 4 reflects all the circumstances that the office of the CE will become vacant. It is not an empowering provision that confers additional powers on the CPG to revoke the appointment of the CE.

Constitutional Affairs Bureau
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