

立法會
Legislative Council

LC Paper No. LS63/01-02

**Paper for the House Committee Meeting
of the Legislative Council
on 22 March 2002**

**Legal Service Division Report on
Extension of Vetting Period (Legislative Council) Bill 2002**

Object(s) of the Bill

To extend the time within which subsidiary legislation and other instruments to be laid on the table of LegCo for "negative vetting" may be amended.

LegCo Brief Reference

2. CSO/ADM CR 16/3231/98(00) issued by the Administration Wing, Chief Secretary for Administration's Office in February 2002.

Date of First Reading

3. 13 March 2002.

Comments

4. At present, as Members well know, LegCo has 28 days plus an extension of one sitting to scrutinize and if necessary, to amend subsidiary legislation from the time it is tabled (the "negative vetting" procedure). From time to time, Members have found this scrutiny period too short, especially when there is an intervening recess break or in the case of a controversial or complex piece of subsidiary legislation.

5. In 2000, the LegCo Panel on Constitutional Affairs studied the matter at the request of the Bills Committee on the Securities (Margin Financing)(Amendment) Bill 1999, which had expressed concern on the problem during its deliberations. On 20 April 2001, the Panel reported to the House Committee after consulting the Administration's views. In its report (LegCo Paper CB(2)1291/00-01), several options for improvement were discussed and a recommendation was made (Option C). For ease of reference, the four time charts attached to the report illustrating how the recommended Option C would operate under various circumstances are reproduced at LS63/01-02(01). The Panel's recommendation was endorsed by members of the House Committee.

6. The Administration agrees with the proposal and the Bill now seeks to implement it by legislation.

7. The new formula will not affect the initial scrutiny period of 28 days, which will remain the same. However, the extension period will be lengthened to -

- (a) the 21st day after the standard 28-day period if there is a sitting on that 21st day;
or
- (b) if there is no sitting on that 21st day, the sitting day immediately following that 21st day.

8. Similarly, where the 28-day period is to end, in the special case of the standard scrutiny period stretching beyond the end of a session, on the second sitting day of the next session, that period will also be lengthened in the same way.

9. It is also proposed to apply the new mechanism to the scrutiny of instruments such as codes of practice, technical memoranda etc. made under certain ordinances. Although these instruments are not subsidiary legislation, they are nevertheless required to be tabled before LegCo for scrutiny and if necessary, amendment. They are similarly subject to the same standard scrutiny period and extension period. The Bill proposes to lengthen the extension period in exactly the same way.

10. Transitional provisions are also included in the Bill to make clear that subsidiary legislation and such instruments as have been tabled before the commencement of the relevant provisions of the Bill will not be affected by the new arrangements. Members may however notice one exception, i.e. the Dumping at Sea Ordinance (Cap. 466), where no such transitional provisions are made. This is because the power to make technical memoranda under that ordinance, unlike most of its other provisions, has not yet commenced operation.

11. The Bill has no commencement provision and will therefore take effect upon its gazettal.

Consultation with LegCo

12. Both the LegCo Panel on Constitutional Affairs and the House Committee have been involved in the formulation of the main proposal of the Bill, as mentioned earlier.

Conclusion


13. Both the legal and drafting aspects of the Bill are in order. Subject to Members' views, the Bill is ready for resumption of second reading.

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12 March 2002

Encls

Example 1


	Subsidiary legislation tabled at Council meeting on 1 November 2000	
1 st week	Council meeting on 8 November 2000	 28 days' scrutiny period expires on 29 November 2000
2 nd week	Council meeting on 15 November 2000	
3 rd week	Council meeting on 22 November 2000	
4 th week	Council meeting on 29 November 2000	
5 th week	Council meeting on 6 December 2000	Under existing arrangement , deadline for amendment on 6 December 2000
6 th week	Council meeting on 13 December 2000	Under Option B , deadline for amendment on 13 December 2000
7 th week	Council meeting on 20 December 2000	Under Options A and C , deadline for amendment on 20 December 2000

* **Option A** - To modify the "extension period" from the existing "one LegCo meeting" to "one LegCo meeting or 21 days, whichever is the later"

Option B - To modify the "extension period" from the existing "one LegCo meeting" to "two LegCo meetings"

Option C - To modify the "extension period" from the existing "one LegCo meeting" to "21 days and, if there is no meeting on the day of expiry of these 21 days, the vetting period is deemed to be extended to the meeting next following the 21-day period"

Example 2


	Subsidiary legislation tabled at Council meeting on 22 November 2000	
1 st week	Council meeting on 29 November 2000	 <p>28 days' scrutiny period expires on 20 December 2000</p>
2 nd week	Council meeting on 6 December 2000	
3 rd week	Council meeting on 13 December 2000	
4 th week	Council meeting on 20 December 2000	
5 th week	No Council meeting on 27 December 2000)))
6 th week	No Council meeting on 3 January 2001) Christmas and New Year) break))
7 th week	Council meeting on 10 January 2001	Under existing arrangement, Options A and C , deadline for amendment on 10 January 2001
8 th week	Council meeting on 17 January 2001	Under Option B , deadline for amendment on 17 January 2001

* **Option A** - To modify the "extension period" from the existing "one LegCo meeting" to "one LegCo meeting or 21 days, whichever is the later"

Option B - To modify the "extension period" from the existing "one LegCo meeting" to "two LegCo meetings"


Option C - To modify the "extension period" from the existing "one LegCo meeting" to "21 days and, if there is no meeting on the day of expiry of these 21 days, the vetting period is deemed to be extended to the meeting next following the 21-day period"

Example 3

	Subsidiary legislation tabled at Council meeting on 15 November 2000	
1 st week	Council meeting on 22 November 2000	 <p>28 days' scrutiny period expires on 13 December 2000</p>
2 nd week	Council meeting on 29 November 2000	
3 rd week	Council meeting on 6 December 2000	
4 th week	Council meeting on 13 December 2000	
5 th week	Council meeting on 20 December 2000	Under existing arrangement and Option A , deadline for amendment on 20 December 2000
6 th week	No Council meeting on 27 December 2000))) Christmas and New Year) break
7 th week	No Council meeting on 3 January 2001)))
8 th week	Council meeting on 10 January 2001	Under Options B and C , deadline for amendment on 10 January 2001

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- Option B** - To modify the "extension period" from the existing "one LegCo meeting" to "two LegCo meetings"
- Option C** - To modify the "extension period" from the existing "one LegCo meeting" to "21 days and, if there is no meeting on the day of expiry of these 21 days, the vetting period is deemed to be extended to the meeting next following the 21-day period"

Example 4

	Subsidiary legislation tabled at Council meeting on 8 November 2000	
1 st week	Council meeting on 15 November 2000	 <p>28 days' scrutiny period expires on 6 December 2000</p>
2 nd week	Council meeting on 22 November 2000	
3 rd week	Council meeting on 29 November 2000	
4 th week	Council meeting on 6 December 2000	
5 th week	Council meeting on 13 December 2000	Under existing arrangement , deadline for amendment on 13 December 2000
6 th week	Council meeting on 20 December 2000	Under Options A and B , deadline for amendment on 20 December 2000
7 th week	No Council meeting on 27 December 2000)))) Christmas and New Year
8 th week	No Council meeting on 3 January 2001))) break
9 th week	Council meeting on 10 January 2001	Under Option C , deadline for amendment on 10 January 2001

* **Option A** - To modify the "extension period" from the existing "one LegCo meeting" to "one LegCo meeting or 21 days, whichever is the later"

Option B - To modify the "extension period" from the existing "one LegCo meeting" to "two LegCo meetings"

Option C - To modify the "extension period" from the existing "one LegCo meeting" to "21 days and, if there is no meeting on the day of expiry of these 21 days, the vetting period is deemed to be extended to the meeting next following the 21-day period"