

立法會
Legislative Council

LC Paper No. CB(2)620/01-02

(These minutes have been
seen by the Administration)

Ref : CB2/SS/1/01

Legislative Council

**Subcommittee on
subsidiary legislation relating to Chief Executive Election**

**Minutes of fourth meeting
held on Monday, 26 November 2001 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon IP Kwok-him, JP (Chairman)
Hon NG Leung-sing, JP
Hon CHAN Yuen-han, JP
Dr Hon Philip WONG Yu-hong
Hon Howard YOUNG, JP
Hon TAM Yiu-chung, GBS, JP
Hon LEUNG Fu-wah, MH, JP

Member attending : Hon Margaret NG

Members absent : Hon Cyd HO Sau-lan
Hon HUI Cheung-ching, JP
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon Jasper TSANG Yok-sing, JP

Public Officers attending : Mr Robin IP
Deputy Secretary for Constitutional Affairs

Mr Chris SUN
Acting Principal Assistant Secretary
for Constitutional Affairs

Mr LI Wing
Chief Electoral Officer

Mr Gilbert MO
Deputy Law Draftsman

Ms Rayne CHAI
Government Counsel

Miss Amy CHAN
Government Counsel

Clerk in attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mr Raymond LAM
Senior Assistant Secretary (2)5

I. The meeting

The Subcommittee deliberated (index of proceedings at **Annex A**) on -

- (a) the Administration's response on the election expenses incurred by candidates of the first term Chief Executive (CE) election;
- (b) the Electoral Procedure (Chief Executive Election) Regulation (L.N. 233 of 2001); and
- (c) the Chief Executive Election (Election Petition) Rules (L.N. 241 of 2001).

2. To facilitate the work of the Subcommittee, the Administration was requested to -

L.N. 233 of 2001

- (a) provide the draft amendments for a declaration of secrecy by any person other than a Returning Officer in the presence of a Justice of the Peace;

L.N. 241 of 2001

Sections 3 and 4

- (b) explain whether sections 3 and 4 as presently drafted amounted to amending the practice and procedure of the High Court and the High Court Fees Rules and how these sections would operate by giving some examples ;
- (c) consider repealing the words "as nearly as circumstances permit" in section 3 and the words ", subject to all necessary modifications," in section 4;

Section 8

- (d) explain whether the requirement for a petitioner to apply to a judge for fixing the date of a trial within two days after the filing of the election petition in sub section (1)(b) was reasonable;
- (e) advise whether a mechanism was in place to ensure that any election petition lodged would be disposed of before 1 July 2002 (in the case of the coming election);

Section 15

- (f) consider a member's view that the petition in section 15(1)(b) and (c) should not be regarded as having been withdrawn and to explain whether there were any other avenues for the petitioner to further pursue the matter if the election petition was regarded as withdrawn;
- (g) consider deleting the words "the proceedings for" at the beginning of section 15(2);
- (h) consider whether any person other than the solicitor acting for the petitioner or the respondent should be responsible for filing a notice of the death of the petitioner, and to consider amending the provisions having regard to other similar statutes; and

Section 19

- (i) consider rewording the word "defrayed" in section 19(1).

3. The Subcommittee also requested Assistant Legal Adviser 4 to provide a legal advice on the issue relating to the circumstances in which petition was regarded as withdrawn (section 15).

II. Any other business

4. Having completed its scrutiny of L.N. 232 and 233 of 2001, the Subcommittee agreed that a report be made to the House Committee at its meeting on 30 November 2001.

5. The Subcommittee agreed to hold the next meeting on 3 December 2001 at 8:30 am to discuss outstanding issues and continue the scrutiny of L.N. 241 of 2001.

6. There being no other business, the meeting ended at 10:15 am.

Council Business Division 2
Legislative Council Secretariat
6 December 2001

**Proceedings of the meeting of the
Subcommittee on subsidiary legislation relating
to Chief Executive Election
Monday, 26 November 2001, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000001-000158	Chairman	Opening remarks and relevant papers	
000159-000252	Adm	LC Paper No. CB(2)484/01-02(01) - election expenses incurred by candidates of the first term CE election	
000253-000321	Chairman	-ditto-	
000322-000332	Adm	-ditto-	
000333-000345	Chairman	-ditto-	
000346-000355	Adm	-ditto-	
000356-000539	Chairman	L.N. 233 of 2001 - examination of section 46 (Admission to counting station)	
000540-000623	Adm	-ditto-	
000624-001642	Chairman	L.N. 233 of 2001 - examination of section 47 (Order in the counting station)	
000643-001713	Adm	-ditto-	
000714-000728	Chairman/Adm	-ditto-	
000729-000738	Chairman	L.N. 233 of 2001 - examination of section 48 (Opening the ballot box)	
000739-000742	Chairman	L.N. 233 of 2001 - examination of section 49 (Counting of votes)	
000743-000811	Adm	-ditto-	
000812-000826	Chairman	L.N. 233 of 2001 - examination of section 50 (Ballot papers not to be counted)	
000827-000854	Adm	-ditto-	
000855-000904	Chairman	L.N. 233 of 2001 - examination of section 51 (Determination of validity of questionable ballot papers)	
000905-000947	Adm	-ditto-	
000948-000955	Chairman	-ditto-	
000956-001000	Chairman	L.N. 233 of 2001 - examination of section 52 (Verification of ballot paper account)	
001001-001044	Adm	-ditto-	

001045-001054	Chairman	L.N. 233 of 2001 - examination of section 53 (Result of counting and re-count)	
001055-001109	Chairman	L.N. 233 of 2001 - examination of section 54 (Notice of further round of voting)	
001110-001118	Adm	-ditto-	
001119-001133	Chairman/Adm	-ditto-	
001134-001225	Chairman	L.N. 233 of 2001 - examination of sections 55-59	
001226-001231	Chairman	L.N. 233 of 2001 - examination of section 60 (Procedure after termination of election proceedings)	
001232-001243	Adm	-ditto-	
001244-001317	ALA4	L.N. 233 of 2001 - technical and drafting aspects of section 60	
001318-001346	Chairman/ALA4	-ditto-	
001347-001447	Chairman	L.N. 233 of 2001 - examination of sections 61-68	
001448-001453	Chairman	L.N. 233 of 2001 - examination of section 69 (Declaration of secrecy)	
001454-001546	ALA4	L.N. 233 of 2001 - technical and drafting aspects of section 69	
001547-001551	Chairman	L.N. 233 of 2001 - role of JPs in declaration of secrecy	
001552-001623	ALA4	-ditto-	
001624-001654	Chairman	-ditto-	
001655-001728	Mr Howard YOUNG	-ditto-	
001729-001741	Adm	-ditto-	
001742-001813	Mr Howard YOUNG	-ditto-	
001814-001828	Mr Howard YOUNG/ Chairman	-ditto-	
001829-001841	Adm	-ditto-	
001842-001912	Chairman/ Mr Howard YOUNG	-ditto-	
001913-001920	Chairman	-ditto-	
001921-001945	Mr Howard YOUNG	-ditto-	
001946-001952	Adm	-ditto-	
001953-002001	Mr Howard YOUNG	-ditto-	
002002-002112	Chairman	-ditto-	
002113-002127	Mr TAM Yiu-chung	-ditto-	
002128-002132	Adm	-ditto-	√
002133-002154	Chairman	-ditto-	

002155-002209	Chairman	L.N. 233 of 2001 - examination of section 70 (Secrecy)	
002210-002214	Chairman	L.N. 233 of 2001 - examination of section 71 (Declaration and undertaking concerning political affiliation)	
002215-002230	Adm	-ditto-	
002231-002359	Chairman	L.N. 233 of 2001 - examination of sections 72-80	
002400-002407	Chairman	L.N. 233 of 2001 - examination of section 81 (Election advertisement)	
002408-002459	ALA4	L.N. 233 of 2001 - technical and drafting aspects of section 81	
002500-002506	Chairman	-ditto-	
002507-002517	ALA4	-ditto-	
002518-002526	Chairman	L.N. 233 of 2001 - examination of section 82 (Offence)	
002527-002552	Adm	-ditto-	
002553-002559	Chairman	-ditto-	
002600-002617	ALA4	-ditto-	
002618-002627	Chairman	L.N. 233 of 2001 - examination of sections 83-84	
002628-002635	Chairman	L.N. 233 of 2001 - examination of section 85 (Application of Parts 4 to 9)	
002636-002651	Adm	-ditto-	
002652-002717	Chairman/Adm	L.N. 233 of 2001 - examination of the Schedule	
002718-002802	Chairman	L.N. 233 of 2001 - report to House Committee	
002803-002821	ALA4	L.N. 233 of 2001 - technical and drafting aspects of Chinese version	
002822-002928	Chairman	L.N. 233 of 2001 - report to House Committee and deadline for amendments	
002929-003131	Chairman	L.N. 241 of 2001 - relevant papers	
003132-003714	Adm	L.N. 241 of 2001 - general briefing	
003715-004543	Miss Margaret NG	L.N. 241 of 2001 - issues relating to sections 3, 4, 8 and 15	
004544-004707	Adm	L.N. 241 of 2001 - period within which a petitioner had to apply for fixing the date of a trial under section 8(1)(b)	
004708-004715	Miss Margaret NG/ Chairman	-ditto-	
004716-004806	Miss Margaret NG	-ditto-	
004807-004847	Adm	-ditto-	

004848-004904	Chairman	-ditto-	
004905-004907	Adm	-ditto-	
004908-005000	Miss Margaret NG	-ditto-	
005001-005004	Miss Margaret NG/ Chairman	-ditto-	
005005-005015	Chairman	-ditto-	√
005016-005115	Adm	-ditto-	
005116-005119	Chairman	-ditto-	
005120-005128	Adm	-ditto-	
005129-005132	Miss Margaret NG	-ditto-	
005133-005413	Adm	L.N. 241 of 2001 - drafting of sections 3 and 4	
005414-005656	Miss Margaret NG	-ditto-	
005657-005736	Adm	-ditto-	
005737-005850	Miss Margaret NG	-ditto-	
005851-005948	Adm	-ditto-	√
005949-010015	Miss Margaret NG	-ditto-	
010016-010024	Chairman	-ditto-	
010025-010341	Adm	L.N. 241 of 2001 - circumstances under which a petition was regarded as withdrawn under section 15	
010342-010643	Miss Margaret NG	-ditto-	
010644-010737	Adm	-ditto-	
010738-010931	Miss Margaret NG	-ditto-	
010932-011053	Adm	-ditto-	
011054-011313	Miss Margaret NG	-ditto-	
011314-011456	Chairman	L.N. 241 of 2001 - avenues for a petitioner to pursue a petition regarded as having been withdrawn under section 15	
011457-011523	Miss Margaret NG	-ditto-	
011524-011624	ALA4	-ditto-	
011625-011645	Chairman	-ditto-	√
011646-011800	Mr Howard YOUNG	L.N. 241 of 2001 - mechanism to ensure that any election petition lodged would be disposed of before the CE elect assumed office	
011801-011855	Adm	-ditto-	
011856-011926	Mr Howard YOUNG	-ditto-	
011927-012030	Adm	-ditto-	
012031-012051	Mr Howard YOUNG	-ditto-	
012052-012056	Chairman	-ditto-	

012057-012128	Adm	-ditto-	
012129-012137	Chairman	-ditto-	
012138-012151	Adm	-ditto-	√
012152-012306	Miss Margaret NG	-ditto-	
012307-012414	Adm	-ditto-	
012415-012440	Miss Margaret NG	-ditto-	
012441-012511	Adm	-ditto-	
012512-012551	Chairman	-ditto-	
012552-012630	Adm	L.N. 241 of 2001 - drafting of section 15(2)	√
012631-012743	Adm	L.N. 241 of 2001 - whether any person other than the solicitor acting for a petitioner or respondent should file a notice of the death of the petitioner	
012744-012937	Miss Margaret NG	-ditto-	
012938-013042	Adm	-ditto-	
013043-013111	Chairman	-ditto-	
013112-013159	Adm	-ditto-	
013200-013207	Chairman	-ditto-	
013208-013230	Adm	-ditto-	
013231-013249	Chairman	-ditto-	
013250-013329	Miss Margaret NG	-ditto-	
013330-013407	Adm	-ditto-	
013408-013542	Miss Margaret NG	-ditto-	
013543-013610	Adm	-ditto-	
013611-013723	Chairman	-ditto-	
013724-013739	Miss Margaret NG	-ditto-	
013740-013752	Chairman	-ditto-	√
013753-013812	Miss Margaret NG	L.N. 241 of 2001 - the use of the word "defrayed" in section 19	
013813-013835	Adm	-ditto-	√
013836-013846	Miss Margaret NG	-ditto-	
013847-013854	Chairman	-ditto-	
013855-014001	Chairman/ALA4/Adm	Date of next meeting	
014002-014209	Chairman	-ditto-	
014210-014219	Mr TAM Yiu-chung/ Chairman/ Miss CHAN Yuen-han	-ditto-	
014220-014245	Chairman	-ditto-	
014246-014252	Miss CHAN Yuen-han	-ditto-	
014253-014259	Adm	-ditto-	

014300-014317	Chairman	-ditto-	
014318-014342	Chairman/ Miss CHAN Yuen-han	-ditto-	
014343-014349	Chairman	-ditto-	
014350-014356	Chairman/Adm	-ditto-	
014357-014447	Chairman	-ditto-	
014448-014519	Adm	L.N. 233 of 2001 - roles of JPs in declaration of secrecy	
014520-014526	Chairman/Adm	-ditto-	
014527-014547	Chairman	-ditto-	
014548-014600	Adm	-ditto-	√
014601-014613	Chairman	-ditto-	

**Note : The audio records of the above proceedings are kept at the LegCo
Library**

Council Business Division 2
Legislative Council Secretariat
6 December 2001