

立法會

Legislative Council

LC Paper No. CB(2)246/02-03

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by the Administration)

Ref : CB2/PL/CA

Panels on Constitutional Affairs and Home Affairs

Minutes of joint meeting held on Friday, 27 September 2002 at 2:30 pm in the Chamber of the Legislative Council Building

**Members
present**

: Members of Panel on Constitutional Affairs

- * Hon Andrew WONG Wang-fat, JP (Chairman)
- Hon James TIEN Pei-chun, GBS, JP
- Hon Margaret NG
- Hon HUI Cheung-ching, JP
- Dr Hon YEUNG Sum
- Hon YEUNG Yiu-chung, BBS
- Hon SZETO Wah

Members of Panel on Home Affairs

- # Hon IP Kwok-him, JP (Chairman)
- Hon Andrew CHENG Kar-foo (Deputy Chairman)
- Hon Cyd HO Sau-lan
- Hon NG Leung-sing, JP
- Hon James TO Kun-sun
- Hon CHOY So-yuk
- Dr Hon TANG Siu-tong, JP
- Hon Henry WU King-cheong, BBS, JP
- Hon Tommy CHEUNG Yu-yan, JP
- Hon Albert CHAN Wai-yip

**Members
absent**

: Members of Panel on Constitutional Affairs

- * Hon Emily LAU Wai-hing, JP (Deputy Chairman)
- Hon CHEUNG Man-kwong
- Hon Howard YOUNG, JP

Members of Panel on Home Affairs

Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Hon LAU Wong-fat, GBS, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Michael MAK Kwok-fung
Hon WONG Sing-chi
Hon MA Fung-kwok, JP

* Also a member of Panel on Home Affairs

Also a member of Panel on Constitutional Affairs

Member attending : Hon LI Fung-ying, JP

Public Officers attending : Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Robin IP Man-fai
Deputy Secretary for Constitutional Affairs

Ms Grace LUI Kit-yuk
Deputy Director of Home Affairs

Ms Doris HO Pui-ling
Principal Assistant Secretary for Constitutional Affairs

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

Staff in attendance : Mr Jimmy MA
Legal Adviser

Mr Paul WOO
Senior Assistant Secretary (2)3

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I. Election of Chairman

Mr Andrew WONG was elected Chairman of the joint meeting.

II. Composition of the Second Term District Councils

(LC Paper Nos. CB(2)2825/01-02(01), 2842/01-02(01))

Introduction

2. The Chairman informed members that Hon IP Kwok-him, the Legislative Council (LegCo) Member returned by the District Councils (DCs) functional constituency, together with a number of DC members, had met with the Secretary for Constitutional Affairs (SCA) on 3 September 2002 to discuss the issue of increasing the number of elected seats for districts which had experienced substantial population growth for the second term DCs. SCA had agreed to conduct a further review of the relationship between population growth and the number of elected seats in the few weeks following that meeting. The Administration had now come up with proposals concerning the composition of the second term DCs. The proposals were set out in a paper prepared by the Administration which was provided to the LegCo Secretariat on the morning of 27 September 2002 (LC Paper No. CB(2)2842/01-02(01)). The Chairman invited SCA to brief members on the paper.

The Administration's proposals

3. SCA said that the Administration, having regard to the views expressed by LegCo Members and DC members and the significant population increases in certain districts, particularly the three new towns i.e. Tung Chung, Tseung Kwan O and Tin Shui Wai, had considered that there should be a limited increase in the number of elected seats for Islands, Sai Kung and Yuen Long DCs. Specifically, the Administration recommended that an extra elected seat should be provided for Islands DC to cater for increase of population in Tung Chung, three elected seats to Sai Kung DC and six to Yuen Long DC. To implement the proposals, it was necessary to amend Schedule 3 to the District Councils Ordinance which specified the number of members to be elected to the DCs.

4. SCA further advised that the Administration also proposed to amend the relevant provisions of the Legislative Council Ordinance and the Chief Executive Election Ordinance to revise the publication dates of electoral registers of electors for geographical constituencies and functional constituencies, voters for Election Committee subsectors, with a view to reducing the time gap between the publication of the final registers and the polling day to about two months. This proposal was made in response to the

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suggestion previously made by the Panel to ensure that the electors' data contained in the final registers would be as up-to-date as possible. The legislative proposals as set out in the Administration's paper were as follows -

- (a) to amend the District Councils Ordinance to change the number of elected seats for Islands, Sai Kung and Yuen Long DCs to eight, 20 and 29 respectively;
- (b) to amend the Legislative Council Ordinance to adjust the cycle for the publication of electoral registers and accordingly the date on or before which a person must reach 18 years of age in order to be eligible for registration as an elector;
- (c) to amend the Chief Executive Election Ordinance to adjust the cycle for the publication of registers of the Election Committee subsector voters; and
- (d) to amend the District Councils Ordinance to replace references to outdated terms and expressions in the disqualification provisions for members, candidates and electors. These terms and references were previously adopted in the Bankruptcy Ordinance (Cap. 6) and the Mental Health Ordinance (Cap. 136) but had been amended subsequently. Technical amendments to the District Councils Ordinance would be introduced to make the relevant terms and expressions consistent with the references in Cap. 6 and Cap. 136.

5. SCA further said that other than the proposed increase in the number of elected seats for Islands, Sai Kung and Yuen Long DCs, the existing district boundaries and the number of appointed and ex-officio seats would remain unchanged for the second term DCs. As previously proposed by the Administration, a review on the composition of the third and subsequent term DCs would be conducted after the second term DC elections had been held in late 2003.

Legislative time table

6. Mr IP Kwok-him and Dr TANG Siu-tong said that they welcomed the Administration's proposal to provide ten additional elected seats for the 2003 District Council elections, having taken into account the views expressed by relevant parties including LegCo Members and DC members. Mr IP enquired about the timetable for implementing the proposal. Mr Tommy CHEUNG suggested that the Electoral Affairs Commission (EAC) should proceed immediately with the task of redrawing the constituency boundaries.

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7. SCA replied that as the Administration's proposals involved amendments to a number of ordinances, the Administration intended to introduce the necessary amendments in the form of a composite bill for scrutiny by LegCo. The Administration would publish the bill in the Gazette on 4 October 2002 and introduce the bill into LegCo at the first meeting of the new session on 9 October 2002. Upon the passage of the bill, EAC would proceed to complete the demarcation of constituency boundaries and consult the public on its recommendations at the earliest possible time. He further advised that under the Electoral Affairs Commission Ordinance, EAC had to submit recommendations on constituency boundaries for the second term DCs to the Chief Executive (CE) on or before 27 November 2002. To provide EAC with sufficient time to redraw the constituency boundaries in the light of the increased number of elected seats, the Administration would seek the approval of CE to extend the above statutory deadline, under section 18(4) of the Electoral Affairs Commission Ordinance, by about six months. SCA said that he hoped that LegCo could accord priority to the bill and complete its scrutiny as soon as possible.

8. SCA added that if the bill were passed by LegCo at the end of November 2002, EAC would publish its recommendations on delineation of constituency boundaries by the end of December 2002 for a one-month public consultation exercise thereafter. After the consultation, EAC would finalise its recommendations as soon as possible for submission to CE.

Appointed seats

9. Dr YEUNG Sum said that he supported increasing the number of elected seats for districts with substantial population growth. He further opined that the Administration should take the opportunity to introduce legislative amendment to replace all the appointed seats for DCs with elected seats. He said that public opinion was in support of gradual democratisation of Hong Kong's political system. Abolishing the system of appointed membership of DCs would be a step forward towards that goal.

10. SCA responded that the primary objective of the present proposal was to deal with the issue of increasing the number of elected seats for DCs to cater for the significant population expansion, in particular in the new towns, so that the relevant DCs would be in a better position to take care of the needs of the residents. He added that the consultation undertaken by the Administration showed that there was a general consensus among the 18 DCs that apart from the adjustment of the number of elected seats for the DCs in question, the number of appointed and ex-officio seats for the second term DCs should remain unchanged. In the longer term, a comprehensive review of the composition of DCs would be conducted after the DC elections in 2003.

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11. Dr YEUNG Sum said that the Democratic Party would move an amendment to the bill to abolish the appointment system if the Administration refused to introduce such an amendment.

12. Mr Tommy CHEUNG declared interest as an appointed DC member. He said that the Liberal Party supported retaining the existing system of appointing a limited number of members to the DCs.

Proposed additional seats for three districts

13. Mr Albert CHAN said that he also supported the Administration's proposal to increase the number of elected seats for districts with substantial population growth. However, he considered that the proposed "6/3/1" formula, i.e. increase of six elected seats for Yuen Long DC, three for Sai Kung DC and one for Islands DC, was not logical and lacked scientific basis. Referring to Annex A of the Administration's paper on the population figures of the 18 DCs, he pointed out that the projected population increase for Yuen Long and Islands by June 2003 was far more significant than the others, i.e. an increase of 39% and 34% respectively. As for the new towns in Tin Shui Wai and Tung Chung, the projected increase was 123% and 92% respectively. He said that as he had all along advocated, at least seven additional seats should be provided for Yuen Long DC, and two for Islands DC, in order to reduce the large discrepancy in the population size of different constituencies.

14. In response, SCA said that the Administration had taken into account the views expressed by all concerned parties, including LegCo Members, DC members and different political parties and groups, before arriving at the present proposal. According to the views of the relevant DCs, an increase of six to seven seats should be provided for Yuen Long DC, two to three additional seats for Sai Kung DC, and one to two additional seats for Islands DC. He further said that the forecast population growth up to June 2003 for Yuen Long, Tseung Kwan O and Tung Chung were about 150 000, 80 000 and 30 000 respectively. The Administration's proposed increase to the number of elected seats was largely proportional to the population growth in the relevant districts.

15. SCA further pointed out that if the number of elected seats of Yuen Long DC was increased by seven, the average population size per constituency in Yuen Long would drop to about 18 000, which would be lower than that of other districts such as the North and Tuen Mun districts. If two additional seats were provided for Islands DC, the average population size per constituency would fall to about 12 600, which would be the lowest among the 18 DCs. If the Administration were to do so, it would likely be criticised for being unfair to other DCs.

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16. Mr Albert CHAN said that he understood that some political parties and groups had lobbied hard for an increase in the number of elected seats for DCs. He said that in his view, the proposed "6/3/1" formula fitted in well with the election strategies of a political party, which was not the Democratic Party or the Liberal Party.

17. SCA said that the Administration's proposal to increase the number of elected seats for the three DCs was made with the objective of improving the work of the DCs concerned and having regard to the support for this expressed by the various political parties including representatives of the Democratic Party. He said that how different political parties and groups would field candidates in running for the elections was not of concern to the Administration.

Means of implementing the Administration's proposals

18. The Chairman said that he supported the Administration's proposal to bring the publication dates of the final electoral registers closer to the polling day for DC and LegCo elections. However, he asked why the Administration had chosen to implement the proposal of increasing the number of elected seats for the three DCs by way of a composite bill. He pointed out that under section 8 of the District Councils Ordinance, CE in Council might, subject to the approval of LegCo, by order published in the Gazette, amend Schedule 3. In his view, a resolution would be a more expedient way of implementing the proposal. The amendments relating to the adjustment of the cycle for the publication of electoral registers and replacement of the outdated references in the disqualification provisions of the District Councils Ordinance etc could be separately dealt with by way of an amendment bill at a later stage.

19. SCA noted the Chairman's views. He said that as the Administration's proposals involved amendments to a number of ordinances, the Administration preferred to introduce all the necessary amendments in the form of a composite bill for detailed consideration by LegCo. He added that the Administration would proceed at the same time with other preparatory work for the next DC elections.

20. The Chairman sought the Legal Adviser's (LA) views on whether LegCo Members could amend the legislative proposal (in the form of a bill or a resolution) to the effect of abolishing all the appointed seats for DCs and/or changing the number of elected seats.

21. In response, LA said that the number of elected, appointed and ex-officio members to be returned to DCs were dealt with under different Parts of the District Councils Ordinance. The questions raised by the Chairman involved consideration of the scope and content of the bill or resolution to be introduced or moved by the Administration, and the relevant provisions of the

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Rules of Procedure. He added that it was for the President to rule whether an amendment proposed was in order taking into account inter alia principles established through previous rulings.

22. The Chairman thanked SCA for attending the meeting and explaining the Administration's proposals to Members.

III. Any other business

23. There being no other business, the meeting ended at 3:20 pm.

Council Business Division 2
Legislative Council Secretariat
1 November 2002