



立法會
LEGISLATIVE COUNCIL

來區傳號 02-261111 CB2/BC/1/07
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(By fax and by post)
Total : 2 pages

5 February 2008

Mr Raymond HO
Secretary General
The Law Society of Hong Kong
3/F, Wing On House
71 Des Voeux Road
Hong Kong

Dear Mr HO,

Bills Committee on Legislative Council (Amendment) Bill 2007

On behalf of the Bills Committee on Legislative Council (Amendment) Bill 2007 (the Bill), I write to seek the comment of the legal professional bodies from the legal viewpoint on a matter raised by some Members.

The Bill seeks to amend the Legislative Council (LegCo) Ordinance to update the electorate of functional constituencies (FCs) and, where necessary, makes consequential amendments to the Chief Executive Election Ordinance. For information on the Bill, please visit the following website : <http://www.legco.gov.hk/yr07-08/english/bc/bc51/general/bc51.htm>

According to the Government, it had, on 21 December 2005, put to the LegCo two motions to amend Annexes I and II of the Basic Law respectively to implement the package of proposals for the methods of selecting the Chief Executive (CE) in 2007 and forming the LegCo in 2008. As the motions did not receive the required two-thirds majority support of LegCo Members, the proposals could not be processed further.

In accordance with the Interpretation made by the Standing Committee of the National People's Congress (NPCSC) on 6 April 2004, if no amendment is made to the methods for selecting the CE and for forming the LegCo as stipulated in Annexes I and II of the Basic Law, the provisions relating to the two methods in Annexes I and II of the Basic Law will continue to apply. In the circumstances, the 2008 LegCo election will be held on the basis of the existing arrangements. Based on this approach, the number and composition of existing FCs should remain unchanged for the 2008 LegCo election, and only minor technical updates will be made.

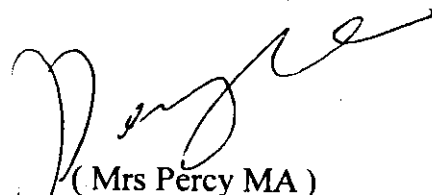
In the course of scrutinizing the Bill, some Members have discussed whether as a matter of law, there is room for expanding the electorate of FCs in the 2008 LegCo election under the NPCSC Interpretation. In accordance with the Interpretation, the provisions relating to the "two methods" in Annexes I and II of the Basic Law will continue to apply if no amendment is made to these methods. However, these Members have queried whether, as a matter of law or otherwise, the Interpretation prohibits changes to be made to the electorate of FCs in the 2008 LegCo election, such as replacing corporate electors with individual electors, or inclusion of new corporate bodies with a status comparable to that of existing corporate electors in certain FCs.

As the Bills Committee will hold its next meeting on 18 February 2008, I should be grateful for the Law Society's comment on the Interpretation's effect in relation to the query **on or before 15 February 2008**.

In line with our usual practice, any paper provided will be distributed to the media and the public unless you advise otherwise. As the paper will be made available on the website of the Legislative Council on the Internet, please let me have a soft copy via e-mail (fitsang@legco.gov.hk).

With best regards,

Yours sincerely,



(Mrs Percy MA)
Clerk to Bills Committee