

立法會
Legislative Council

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LC Paper No. CB(2)1627/10-11
(These minutes have been seen
by the Administration)

**Bills Committee on Chief Executive Election (Amendment) Bill 2010
and Legislative Council (Amendment) Bill 2010**

**Minutes of the fifth meeting
held on Thursday, 20 January 2011, at 8:30 am
in the Chamber of the Legislative Council Building**

- Members present** :
- Hon TAM Yiu-chung, GBS, JP (Chairman)
 - Hon Jeffrey LAM Kin-fung, SBS, JP (Deputy Chairman)
 - Hon Albert HO Chun-yan
 - Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
 - Dr Hon Margaret NG
 - Hon WONG Yung-kan, SBS, JP
 - Hon LAU Kong-wah, JP
 - Hon Miriam LAU Kin-ye, GBS, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon Abraham SHEK Lai-him, SBS, JP
 - Hon Audrey EU Yuet-mee, SC, JP
 - Hon LEE Wing-tat
 - Hon CHEUNG Hok-ming, GBS, JP
 - Hon WONG Ting-kwong, BBS, JP
 - Hon Ronny TONG Ka-wah, SC
 - Hon CHIM Pui-chung
 - Hon Cyd HO Sau-lan
 - Hon CHAN Kin-por, JP
 - Hon WONG Kwok-kin, BBS
 - Hon IP Kwok-him, GBS, JP
 - Hon Mrs Regina IP LAU Suk-ye, GBS, JP
 - Hon Alan LEONG Kah-kit, SC
 - Hon LEUNG Kwok-hung
- Members absent** :
- Hon CHEUNG Man-kwong
 - Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
 - Dr Hon Philip WONG Yu-hong, GBS

Hon LAU Wong-fat, GBM, GBS, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Prof Hon Patrick LAU Sau-shing, SBS, JP
Dr Hon LAM Tai-fai, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP
Hon WONG Yuk-man

Public Officers : Constitutional and Mainland Affairs Bureau
attending

Mr Joshua LAW Chi-kong
Permanent Secretary for Constitutional and Mainland
Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland
Affairs

Ms Anne TENG Yu-yan
Principal Assistant Secretary for Constitutional and
Mainland Affairs

Mr Freely CHENG Kei
Principal Assistant Secretary for Constitutional and
Mainland Affairs

Department of Justice

Mr Gilbert MO Sik-keung
Deputy Law Draftsman
(Bilingual Drafting and Administration)

Miss Emma WONG
Senior Government Counsel

Clerk in : Miss Flora TAI
attendance : Chief Council Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Ms Amy YU
Senior Council Secretary (2)3

Mrs Fanny TSANG
Legislative Assistant (2)3

Action

I. Meeting with the Administration

[LC Paper Nos. CB(2)710/10-11(01) to (02), CB(3)313/10-11 and CB(3)314/10-11]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

Clause-by-clause examination of the Bills

2. The Bills Committee continued with the clause-by-clause examination of the Chief Executive Election (Amendment) Bill 2010.

Follow-up actions required of the Administration

Admin 3. The Administration was requested to -

Clause 1

- (a) consider refining the drafting of the Chinese text of clause 1(2)(a) by adding the word "但" before "只限於" and re-positioning the phrase "自本條例於憲報刊登當日起實施" at the beginning of the sub-clause (as in the case of the English text) to enhance the clarity of the provision;

Clause 2

- (b) provide a paper to explain the new structure of amending provisions and operative provisions used in the Bill and how it compared with the old format;

Clause 5

Action

- (c) provide information on the number and nature (i.e. whether individuals or bodies) of registered voters in each of the subsectors under the Election Committee ("EC"); the number of persons engaged by the relevant trades in each of the subsectors, if available; changes in the weight of each vote in each of the subsectors under the Administration's proposal on allocation of seats among the subsectors; and the number of seats to be allocated to each of the subsectors if allocation was made on the basis of their electorate base;
- (d) provide a list of the different types of eligible voters under clause 5(42)(1) and their respective numbers;

Clause 6

- (e) consider the views of the legal adviser to the Bills Committee on the drafting of the proposed new section 2A(11) and (17) of the Schedule concerning arrangements for the Special Member seats; and

Clause 7

- (f) clarify whether the use of the phrase "is registered or applies to be registered" in the proposed section 12(11)(g) and (h) of the Schedule was inconsistent with the Administration's proposal of automatic registration of elected District Council ("DC") members as voters in the DC subsectors of EC.

Admin

4. The Administration informed the Bills Committee that it would move Committee Stage amendments to amend the names of the following organizations in Table 5 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) -

- (a) "Hong Kong Chinese Overseas Physician Association (僑港中醫公會)" (item 4(10)) to be amended as "Hong Kong Chinese Medicine Practitioners Association Limited (僑港中醫師公會有限公司)"; and
- (b) "Hong Chi Association – Hong Chi Pinehill Advanced Training Centre (匡智會—匡智松嶺青年訓練中心)" (item 6(4)(d)) to be amended as "Hong Chi Association – Hong Chi Pinehill Integrated Vocational Training Centre (匡智會—匡智松嶺綜合職業訓練中心)".

Action

II. Any other business

5. There being no other business, the meeting ended at 10:41 am.

Council Business Division 2
Legislative Council Secretariat
28 April 2011

**Proceedings of the fifth meeting of the
Bills Committee on Chief Executive Election (Amendment) Bill 2010
and Legislative Council (Amendment) Bill 2010
on Thursday, 20 January 2011, at 8:30 am
in the Chamber of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
Clause-by-clause examination of the Chief Executive Election (Amendment) Bill 2010 ("the Bill")			
000725 - 001108	Chairman SALA2 Ms Emily LAU Administration	The legal adviser to the Bills Committee suggested that the Administration could consider refining the drafting of the Chinese text of clause 1(2)(a) by adding the word "但" before "只限於" and re-positioning the phrase "自本條例於憲報刊登當日起實施" at the beginning of the sub-clause (as in the case of the English text) to enhance the clarity of the provision.	Admin (para 3 of minutes)
001109 - 002230	Dr Margaret NG Chairman Administration	<p>Clause 2 - Enactments amended</p> <p>Dr Margaret NG queried the appropriateness of the use of the term "enactments" in clause 2 and its Chinese rendition of "成文法則". She also expressed concern about the new structure of amending provisions and operative provisions (i.e. clause 2) used in the Bill.</p> <p>The Administration explained that -</p> <p>(a) according to the Interpretation and General Clauses Ordinance ("Cap. 1"), the standard Chinese rendition for "enactment" was "成文法則"; and</p> <p>(b) the Administration had briefed the Panel on Administration of Justice and Legal Services in December 2009 on the new format and visual design of legislation, including the new structure of amending provisions and operative provision which aimed at facilitating readers to spot the amendments more readily. The new format and design of legislation had been implemented since the beginning of the 2010-2011 legislative session.</p> <p>At the request of Dr Margaret NG, the Administration agreed to provide a paper to explain the new structure of amending provisions and operative provision used in the Bill and how it compared with the old format.</p>	Admin (para 3 of minutes)

Time Marker	Speaker(s)	Subject(s)	Action required
002231 - 003615	SALA2 Administration Dr Margaret NG Chairman Mr IP Kwok-him	<p>The legal adviser to the Bills Committee sought clarification on whether the term "enactment" covered both principal legislation and subsidiary legislation.</p> <p>The Administration replied that the meaning of "enactment" as defined in Cap. 1 covered both principal legislation and subsidiary legislation.</p> <p>The legal adviser to the Bills Committee suggested that consideration could be given to replacing the term "enactments" in clause 2 with "the Ordinance and its subsidiary legislation" to define more precisely the scope of the legislation referred to in the operative provision of the Bill.</p> <p>The Administration responded that the Administration considered it appropriate to use the term "enactments" as it covered any item of principal legislation and subsidiary legislation and as such offered greater flexibility.</p> <p>Dr Margaret NG pointed out that "enactment" normally referred to the principal legislation enacted by the Legislature, which should be distinguished from subsidiary legislation made under delegated authority of the Legislature. She considered that Cap. 1 should be reviewed.</p>	
003616 - 003757	Chairman Administration	Clause 3 - Section 16 amended (Manner of nomination)	
003758 - 003920	Administration	Clause 4 - Schedule, section 1 amended (Interpretation)	
003921 - 004524	Administration	Clause 5 - Schedule, section 2 amended (How Election Committee is to be constituted)	
004525 - 004710	Dr Margaret NG Administration Chairman	Dr Margaret NG expressed grave reservation about the Administration's proposal of allocating the new Election Committee ("EC") seats to the existing subsectors in the first three sectors by proportion according to the existing distribution of seats. By way of illustration, she pointed out that there were significant differences in the electorate base among the subsectors of the third sector of EC such as the Agriculture and Fisheries subsector, the Labour subsector and the Social Welfare subsector; and yet the Administration had proposed that the number of seats of each of these subsectors be increased from 40 to 60. She considered that such an arrangement unfair.	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>In response to Dr Margaret NG, the Administration advised that it considered the allocation of seats appropriate but Members could consider moving amendments to the allocation of seats to the existing subsectors as set out in clause 3 of the Bill if they did not agree with the Administration's proposal.</p>	
004711 - 005330	Dr Margaret NG Administration	<p>Dr Margaret NG considered that the allocation of new seats to the existing subsectors of EC should be in proportion to their electorate base, rather than the existing distribution of seats.</p> <p>The Administration responded that -</p> <p>(a) the Administration's proposal aimed at enhancing the democratic elements of the EC election mainly through increasing the proportion of elected District Council ("DC") members in the fourth sector of the EC; and</p> <p>(b) as regards the first three sectors of EC, the Administration considered it appropriate to follow the established mechanism of increasing the number of seats of the subsectors by the same proportion in compliance with the principle of balanced participation.</p> <p>Dr Margaret NG requested the Administration to provide information on the number of registered voters in each of the subsectors, changes in the weight of each vote in each of the subsectors under the Administration's proposal on allocation of seats among the subsectors; and the number of seats to be allocated to each of the subsectors if the allocation was made on the basis of their electorate base.</p> <p>The Administration agreed to provide information on the number of registered voters in each of the subsectors of the four sectors of EC.</p>	<p>Admin (para 3 of minutes)</p>
005331 - 010204	Mr LEUNG Kwok-hung Chairman Administration	<p>Mr LEUNG Kwok-hung queried whether the Administration's proposal of increasing the membership size of EC from 800 to 1 200 in the 2012 Chief Executive ("CE") election was consistent with the principle of gradual and orderly progress laid down in Article 45 of the Basic Law ("BL"). He pointed out that if universal suffrage for CE was to be implemented in 2017, more progressive changes should have been made in the 2012 CE election so as to comply with the principle of gradual and orderly progress.</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>The Administration responded that -</p> <ul style="list-style-type: none"> (a) the Administration's proposals in the Bills were made on the basis of the resolution passed by the Legislative Council ("LegCo") in June 2010 concerning the draft amendments to the method for the selection of CE and the method for the formation of LegCo in 2012; (b) the proposed increase of the membership of EC from 800 to 1 200 was in line with the principle of gradual and orderly progress, would enhance the representativeness of EC and help transform EC into the nominating committee when universal suffrage for CE was implemented in 2017; and (c) the model for implementing universal suffrage for CE in 2017 would be dealt with by the fourth-term CE and the Fifth LegCo. 	
010205 - 010946	Mr Alan LEONG Administration	<p>Mr Alan LEONG opined that, as the 2012 CE election was the last one to be held before the implementation of universal suffrage for CE in 2017, the Administration should have further enhanced the representativeness of EC by including representatives from other sectors currently not covered under EC, to facilitate its transformation into the broadly representative nominating committee in 2017.</p> <p>The Administration responded that -</p> <ul style="list-style-type: none"> (a) the Administration's proposal of allocating 75 new seats to the DC subsectors in the fourth sector of EC to be returned by elected DC members from among themselves had enhanced the democratic elements of the EC subsectors elections; (b) the Administration had considered the proposals of adding new subsectors (e.g. for small and medium size enterprises and women) to EC. As these proposals covered a broad range of different organizations, the Administration considered that, at this stage, the community were unlikely to reach consensus in that regard; and (c) the composition of the first three sectors was broadly representative and it was considered appropriate to allocate the additional seats to their subsectors by proportion according to the existing distribution of seats. 	

Time Marker	Speaker(s)	Subject(s)	Action required
010947 - 011211	Dr Margaret NG Chairman Administration	At the request of Dr Margaret NG, the Administration agreed to provide information on the number of persons engaged by the relevant trades in each of the EC subsectors, if available.	Admin (para 3 of minutes)
011212 - 011955	SALA2 Administration Dr Margaret NG	<p>Noting that for the subsectors in the first sector currently with 11 seats, some of them would have their seats increased to 16 while the others to 17, the legal adviser to the Bills Committee enquired about the reason for the difference.</p> <p>The Administration explained that -</p> <p>(a) at present, there were a total of 17 subsectors in the first sector of EC. 13 of them had 12 seats while the remaining four had 11 seats;</p> <p>(b) in respect of the 13 subsectors with 12 seats, their number of seats would be increased by 50% to 18 each, making up a total of 234 seats. The remaining 66 seats in the first sector could not be divided evenly among the four subsectors which currently had 11 seats. When EC was established in 1998, these four subsectors (i.e. Catering, Employers' Federation of Hong Kong, Hong Kong Chinese Enterprises Association and Hotel subsectors) were allocated one seat less the other 13 subsectors because they did not have an equivalent functional constituency ("FC"). This same principle was adopted for allocating the 66 seats among the four subsectors. As the Catering and Hotel subsectors now had an equivalent FC, they were allocated one more seat than the other two subsectors which did not have an equivalent FC.</p>	
011956 - 013151	Chairman Administration Dr Margaret NG	<p>Dr Margaret NG's enquiry on whether the 10 specified bodies set out in the proposed item 4(1) of Table 5 of section 2 of the Schedule was an exhaustive list of all relevant bodies in the Chinese medicine trade, the total number of eligible voters in these 10 bodies and whether there were any overlaps in their memberships.</p> <p>The Administration responded that -</p> <p>(a) when the Chinese medicine subsector was established, there was consensus within the trade that the 10 bodies were the representative bodies of the Chinese medicine practitioners ("CMPs");</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>(b) there were a total of some 5 900 eligible voters in these 10 bodies; and</p> <p>(c) while there were overlaps in the memberships of these 10 bodies, each eligible voter could only cast one vote.</p> <p>In response to Dr Margaret NG, the Administration explained that eligible voters under the proposed item 4(1) of Table 5 included Registered CMPs and Listed CMPs who were entitled to vote at the general meetings of the 10 bodies.</p> <p>Dr Margaret NG requested the Administration to provide a list of the different types of eligible voters under the proposed item 4(1) of Table 5 and their respective numbers.</p>	<p>Admin (para 3 of minutes)</p>
013152 - 013332	Mrs Regina IP Administration	<p>Mrs Regina IP asked whether the Administration's proposal of extending the electorate base of the Chinese medicine subsector (i.e. qualified practitioners being eligible to be registered as voters) would also apply to other EC subsectors.</p> <p>The Administration responded that -</p> <p>(a) the Administration proposed that Registered CMPs should be eligible for registration as voters in the Chinese medicine subsector, as this arrangement was in line with other professional subsectors such as the Medical subsector in which statutory qualifications were adopted for delineating the electorate; and</p> <p>(b) no changes were proposed to be made to the electorate base of other EC subsectors as it would be difficult to reach consensus on such proposals.</p>	
013333 - 013905	SALA2 Chairman Dr Margaret NG Administration Mrs Regina IP	The Administration was requested to provide information on the nature (i.e. whether individuals or bodies) of the voters in each of the EC subsectors.	<p>Admin (para 3 of minutes)</p>
013906 - 013952	Administration	The Administration informed members that it would move Committee Stage amendments to amend the names of the following organizations in Table 5 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) -	<p>Admin (para 3 of minutes)</p>

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>(a) "Hong Kong Chinese Overseas Physician Association (僑港中醫公會)" (item 4(10)) to be amended as "Hong Kong Chinese Medicine Practitioners Association Limited (僑港中醫師公會有限公司)"; and</p> <p>(b) "Hong Chi Association – Hong Chi Pinehill Advanced Training Centre (匡智會—匡智松嶺青年訓練中心)" (item 6(4)(d)) to be amended as "Hong Chi Association – Hong Chi Pinehill Integrated Vocational Training Centre (匡智會—匡智松嶺綜合職業訓練中心)".</p>	
013953 - 014218	Mr Alan LEONG Administration Chairman	Mr Alan LEONG enquired why more seats had been allocated to the New Territories ("NT") DCs subsector than the Hong Kong and Kowloon DCs subsector. The Administration explained that as NT had more population and elected DC members than Hong Kong and Kowloon, it was proposed that more additional seats be allocated to the former.	
014219 - 014624	Chairman Administration SALA2	<p>Clause 6 - Schedule, section 2A added</p> <p>The legal adviser to the Bills Committee considered that there might be a technical problem with the drafting of the proposed new section 2A(11) and (17) of the Schedule concerning arrangements for the Special Member seats. He was of the view that the provisions should be worded in such a way that the proposed new section 2A(11) would take effect before the proposed new section 2A(17) became operative.</p> <p>The Administration considered that there was no problem with the two provisions becoming operative at the same time. The legal effect of the two provisions was that the whole proposed new section 2A, including section 2A(11), would cease to apply upon the date of commencement of the Fifth LegCo. Nevertheless, the Administration undertook to further discuss the matter with the legal adviser to the Bills Committee.</p>	Admin (para 3 of minutes)
015258 - 015403	Administration	Clause 7 - Schedule, section 12 amended (Who is eligible to be registered as a voter)	
015404 - 015550	Administration	Clause 8 - Schedule, section 14 amended (Electoral Registration Officer to compile and publish a register of voters)	

Time Marker	Speaker(s)	Subject(s)	Action required
015551 - 020042	Mr Albert HO Administration	<p>Mr Albert HO considered that elected DC members should be given the option to be registered as voters in other EC subsectors. He sought explanation on the rationale behind the Administration's proposal that elected DC members could only be registered as voters in the DCs subsectors.</p> <p>The Administration explained that -</p> <p>(a) to avoid the DCs subsectors having a narrow electorate base, the Administration had proposed that elected DC members could only be registered as voters in the DCs subsectors and not other EC subsectors. Such an arrangement also applied to voters in the Heung Yee Kuk, Agriculture and Fisheries, Insurance and Transport subsectors in view of their small electorate base; and</p> <p>(b) as regards the registration process, since the next EC subsector elections would likely be held about one month after the next DC election, the Administration proposed that the newly elected DC members should be automatically registered in the DCs subsectors after the DC election in November 2011. If an elected DC member did not wish to be registered as a voter in the relevant DCs subsector, he could have his name removed from the Final Register of the subsector concerned, but he could not be registered as a voter in other EC subsectors.</p> <p>In response to Mr Albert HO's further enquiry, the Administration clarified that for an elected DC member who was also eligible to be registered as a voter in the Heung Yee Kuk, Agriculture and Fisheries, Insurance or Transport subsectors, he could only be registered as a voter in the relevant DCs subsector.</p>	
020043 - 020600	Mr Alan LEONG Administration	<p>Mr Alan LEONG considered that elected DC members should be given the option to be registered as voters in other EC subsectors. He also considered that it was feasible to do so, as candidates of the 2011 DC election could be asked to indicate before the election whether they opted to be registered as voters in the relevant DCs subsector or other EC subsectors should they be elected.</p>	
020601- 020732	Mr IP Kwok-him	<p>Mr IP Kwok-him expressed support for the Administration's proposal that elected DC members could only be registered as voters in the DCs subsectors given the small electorate base and the significant increase in</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		the number of seat (117) to be returned by elected DC members. He also indicated support for the automatic registration arrangement proposed by the Administration which he considered was practical and less cumbersome.	
020733 - 020926	Mr LEUNG Kwok-hung	Mr LEUNG Kwok-hung also shared the view that elected DC members should be given the option to be registered as voters in other EC subsectors.	
020927 - 021108	Chairman SALA2 Administration	The legal adviser to the Bills Committee commented that the use of the phrase "is registered or applies to be registered" in the proposed section 12(11)(g) and (h) of the Schedule appeared to be inconsistent with the automatic registration arrangement proposed by the Administration. The Administration undertook to clarify on this issue.	Admin (para 3 of minutes)
021109 - 021139	Chairman	Date of next meeting	