

立法會
Legislative Council

Ref : CB2/BC/3/10

LC Paper No. CB(2)2578/10-11
(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 sixth meeting
held on Friday, 21 January 2011, at 3:00 pm
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)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-yeet, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, SBS, JP
Hon LEE Wing-tat
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP

Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

**Members
absent** : Hon Albert HO Chun-yan
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon WONG Kwok-hing, MH
Hon CHEUNG Hok-ming, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun
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 had completed the clause-by-clause examination of the Chinese text of the Chief Executive Election (Amendment) Bill 2010.
3. The Bills Committee started to examine the Chinese text of the Legislative Council (Amendment) Bill 2010 ("the Bill") clause by clause. The legal adviser to the Bills Committee was requested to examine the English text of the Bill from the drafting point of view.

Follow-up actions required of the Administration

- Admin
4. The Administration was requested to -
 - (a) explain the various commencement dates as stipulated in clause 1 of the Bill;
 - (b) consider the suggestion of the legal adviser to the Bills Committee to replace the date of "1 October 2012" in clause 1(4) of the Bill with a general phrase such as "the date on which the term of office of the fifth Legislative Council ("LegCo") commences";
 - (c) consider the provision of information on the requests to be included as constituents in respect of each of the traditional functional constituencies ("FCs") which had been received by the Administration;

Action

- (d) consider the provision of information on the names of the IT organizations which had requested joining the FC concerned during a meeting of the relevant LegCo committee to discuss the methods for selecting the Chief Executive in 2007 and for forming LegCo in 2008 a few years ago and whether the Administration had followed up the requests; and
- (e) provide information on the timeline of actions to be taken by the Administration to inform persons registered or eligible to be registered as electors of traditional FCs of their option to choose to register in a traditional FC or the new District Council FC and the relevant registration arrangements.

II. Any other business

- 5. There being no other business, the meeting ended at 6:07 pm.

Council Business Division 2
Legislative Council Secretariat
6 September 2011

**Proceedings of the sixth meeting of the
Bills Committee on Chief Executive Election (Amendment) Bill 2010
and Legislative Council (Amendment) Bill 2010
on Friday, 21 January 2011, at 3:00 pm
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			
000347 - 000626	Chairman Administration	Clause 9 - Schedule, section 18A amended (When a person is disqualified from being a candidate for 4 subsectors in the Fourth Sector)	
000627 - 000839	Administration Chairman	Clause 10 - Schedule, sections 18B and 18C added	
000840 - 001039	Administration Chairman	Clause 11 - Schedule, section 40 amended (Electoral Registration Officer to compile and publish interim register and final register)	
001040 - 001155	Administration Chairman	Part 3 Clause 12 - Section 3 amended (Fixing of hearing and notifying appellant thereof)	
001156 - 001300	Administration	Part 4 Clause 13 - Section 8 amended (Number and qualifications of subscribers to nomination paper)	
001301 - 001649	Administration Chairman SALA2 Administration	Part 5 Clause 14 - Schedule amended (Distribution of number of members among designated bodies) In response to the enquiry of the legal adviser to the Bills Committee on the basis of allocation of seats among the six designated bodies of the religious subsector under the third sector of the Election Committee ("EC"), the Administration explained that the 60 seats proposed to be allocated to the religious subsector would be evenly divided among the six designated bodies, i.e. 10 seats each.	
Clause-by-clause examination of the Legislative Council (Amendment) Bill 2010			
001650 - 001954	Chairman Administration	Long title	

Time Marker	Speaker(s)	Subject(s)	Action required
001955 - 002628	Administration Chairman Ms Emily LAU SALA2	<p>Part 1</p> <p>Clause 1 - Short title and commencement</p> <p>Ms Emily LAU requested the Administration to provide a paper to explain the various commencement dates as stipulated in clause 1 of the Bill.</p> <p>The legal adviser to the Bills Committee pointed out that according to section 4 of the Legislative Council Ordinance (Cap. 542) ("LCO"), each term of office of the Legislative Council ("LegCo") was to begin on a date to be specified by the Chief Executive in Council by way of publication in the Gazette. In view of this, he suggested that consideration be given to replacing the date of "1 October 2012" in clause 1(4) with a general phrase such as "the date on which the term of office of the fifth LegCo commences".</p> <p>The Administration explained that 1 October 2012 was specified in the clause as the term of office of LegCo normally commenced on 1 October. Nevertheless, it undertook to consider the legal adviser's suggestion.</p>	<p>Admin (para 4 of minutes)</p> <p>Admin (para 4 of minutes)</p>
002629 - 002745	Administration Dr Margaret NG	<p>Clause 2 - Enactments amended</p> <p>Dr Margaret NG reiterated her view that "成文法則" was not an appropriate Chinese rendition for the term "enactments".</p>	
002746 - 005700	Dr Margaret NG Chairman Clerk Ms Audrey EU Mr IP Kwok-him Mr LAU Kong-wah Mr WONG Kwok-kin	<p>Dr Margaret NG indicated that Members belonging to the Civic Party intended to move Committee Stage amendments ("CSAs") on the allocation of seats among the subsectors of EC.</p> <p>Timing for discussion of CSAs proposed by members and date of resumption of the Second Reading debate on the Bills.</p>	
005701 - 010925	Chairman Administration Dr Margaret NG SALA2 Mr LAU Kong-wah	<p>Clause 3 – Section 3 amended (Interpretation)</p> <p>In response to Mr LAU Kong-wah's enquiry, the Administration clarified that a nomination list could consist of one or more candidates.</p>	
010926 - 011004	Administration Chairman	<p>Clause 4 – Section 19 amended (Number of Members to be returned for geographical constituency)</p>	
011005 - 011056	Administration	<p>Clause 5 – Section 20 amended (Establishment of functional constituencies)</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
011057 - 011315	Administration Chairman SALA2	Clause 6 – Section 20E amended (Composition of the education functional constituency)	
011316 - 011934	Ms Audrey EU Administration Chairman	<p>Ms Audrey EU requested the Administration to provide a list of all the requests to be included as constituents in respect of each of the traditional functional constituencies ("FCs") which had been received by the Administration.</p> <p>The Administration advised that -</p> <ul style="list-style-type: none"> (a) the five new District Council ("DC") FC seats to be returned by approximately 3.2 million registered voters on a one-person-one-vote basis would substantially enhance the democratic elements of FCs; (b) from time to time, the Administration received requests to be included as constituents of the traditional FCs. However, the overall approach was that there should be no substantial changes to the traditional FCs in the 2012 LegCo election. Nevertheless, as a regular exercise before each LegCo election, the Administration would review whether there was a need to propose technical adjustments to the electorate of the traditional FCs to reflect their latest developments; and (c) the Administration was reviewing whether there was a need to make further adjustments to the electorate of the traditional FCs in the light of the views of Members and deputations, and would revert to the Bills Committee if any proposal was made in this regard. <p>In response to Ms Audrey EU, the Administration advised that it would keep in view whether the University of Hong Kong (Amendment) Bill 2010 currently under scrutiny by LegCo would have any implications on the Bill in respect of the composition of the education FC.</p>	Admin (para 4 of minutes)
011935 - 013103	Mr Paul TSE Administration Chairman	Mr Paul TSE shared Ms Audrey EU's view that the Administration should provide information on the requests it had received for being included as constituents in respect of each of the traditional FCs. He reiterated his view that the traditional FCs should not remain stagnant and improvements should be made to expand their electorate base.	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>Mr Paul TSE sought clarification on whether changes made to the name of a body after this legislative exercise would affect its entitlement to vote in the relevant FC.</p> <p>The Administration responded that -</p> <p>(a) mere changes to the name of a body would not affect the voting right of the body or of its members. Opportunity was taken of the current legislative exercise to reflect the changes in the names of certain bodies which were no longer operating under their old names; and</p> <p>(b) as per section 3(2A) of LCO, any changes to a body's constitution which related to the eligibility of members of the body to vote at a general meeting of the body required the prior approval of the Secretary for Constitutional and Mainland Affairs.</p>	
013104 - 013248	Chairman Administration Ms Audrey EU	Clause 7 – Section 20V amended – (Composition of the sports, performing arts, culture and publication functional constituency)	
013249 - 013553	Administration Chairman Ms Audrey EU	<p>Clause 8 – Section 20W amended – (Composition of the import and export functional constituency)</p> <p>In response to Ms Audrey EU, the Administration explained that the “Hong Kong Maize and Feed Importers Association Ltd.” was deleted from the import and export FC as it had ceased operation.</p> <p>Ms Audrey EU reiterated her request for information on the requests for joining the traditional FCs which had been turned down by the Administration. In her view, the Administration’s rejection of such requests had further worsened the problem of lack of representativeness of the traditional FCs.</p>	
013554 - 015603	Dr Margaret NG Administration Mr Paul TSE Chairman	<p>In response to Dr Margaret NG's enquiry on the representativeness of the body electors of FCs, the Administration reiterated that it was considering the views expressed by Members and deputations on the electorate of traditional FCs and would introduce CSAs to the Bill if it was considered appropriate to make further adjustments in this regard.</p> <p>Dr Margaret NG considered that the Administration should enhance the transparency of the nature of body electors in FCs to address the concern that they were</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>prone to manipulation. She was of the view that the Administration should verify the status of the registered body electors of FCs on a regular basis to ensure that they remained to be eligible for registration as electors, i.e. whether they were still active and representative. The Administration explained that the Registration and Electoral Office ("REO") would update the electoral records of the body electors before every LegCo general election to reflect the latest developments.</p> <p>Dr Margaret NG also requested the Administration to provide information on the requests made by organizations for joining the traditional FCs.</p> <p>The Administration advised that generally it would not make public the correspondences it had received from other organizations. Nevertheless, the Administration would consider whether any information concerning such requests could be provided for members' reference.</p>	<p>Admin (para 4 of minutes)</p>
015604 - 020121	Administration Dr Margaret NG	<p>Clause 9 - Section 20Z amended – (Composition of the information technology functional constituency)</p> <p>Dr Margaret NG recalled that during a meeting of the relevant LegCo committee to discuss the electoral methods for selecting the Chief Executive in 2007 and for forming LegCo in 2008 a few years ago, the Administration had undertaken to consider the requests made by some IT organizations to be included as constituents of the relevant FC during the next legislative exercise to update the electorate of FCs. She requested the Administration to provide information on the names of these IT organizations and whether the Administration had followed up their requests.</p> <p>The Administration responded that it would consider whether any relevant information could be provided to the Bills Committee.</p>	<p>Admin (para 4 of minutes)</p>
020122 - 020256	Administration Dr Margaret NG Chairman	<p>Clause 10 - Section 20ZB amended – (Composition of the District Council functional constituency)</p>	
020257 - 022339	Dr Margaret NG Chairman Administration SALA2	<p>Clause 11 - Section 20ZC added</p> <p>Dr Margaret NG sought clarification on the need for the proposed new section 20ZC and whether the proposed new sections 20ZC and 25(2A) duplicated each other. The Administration explained that the proposed new section 20ZC provided for the composition of the new DCFC. The objective of the new section 25(2A) was</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		to clarify, for the purpose of section 25(2) of LCO, that persons who had registered as electors in the traditional FCs were eligible to be registered as electors in the new DCFC, i.e. they would have a choice between being registered as an elector of a traditional FC or the new DCFC.	
022340 - 022824	Mr LAU Kong-wah Administration Mr Paul TSE	<p>Noting that persons who were eligible to be registered as electors for traditional FCs but had not done so would be automatically registered under the new DCFC, Mr LAU Kong-wah enquired how and when these persons would be notified of the automatic arrangement and their choice to opt to register in the new DCFC or a traditional FC.</p> <p>The Administration advised that -</p> <ul style="list-style-type: none"> (a) for persons eligible for registration under the new DCFC who were not registered in the 28 existing FCs, they would be registered under the new DCFC as a transitional arrangement in 2012. REO would send letters to inform them of the registration arrangement and what they should do if they objected to such registration; and (b) after the enactment of the LegCo (Amendment) Bill 2010, REO would work out details of the practical electoral and registration arrangements and publicize the relevant arrangements. 	
022825- 024541	Dr Margaret NG Administration SALA2 Chairman Mr IP Kwok-him Mr LAU Kong-wah	<p>Dr Margaret NG said that according to her understanding, the policy intention was that the five new DCFC seats were to be returned by persons who currently did not have a right to vote in FCs. Noting that under the proposed new sections 20ZC and 25(2A), persons registered or eligible to be registered as electors of traditional FCs would be given the option to choose to register in the new DCFC or the traditional FCs, she queried whether these provisions as presently drafted were consistent with the policy intention in respect of the voting right of the new DCFC seats.</p> <p>The Administration responded that -</p> <ul style="list-style-type: none"> (a) given that the DC (second) FC was a new FC, the Administration considered that, as a matter of principle, persons registered or eligible to be registered as electors of traditional FCs should also be given the choice to register in the new DCFC; and 	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>(b) when the Administration briefed the Panel on Constitutional Affairs on the legislative proposals at its meeting on 30 October 2010, the Administration had informed the Panel of its proposal that persons registered or eligible for registration as electors in the traditional FCs would be given a choice to opt to register in the traditional FCs or the new DC FC.</p> <p>The legal adviser to the Bills Committee considered that there might be a conceptual problem with the proposed new section 25(2A), as a person who had already registered in a traditional FC would no longer be eligible to be registered in another FC.</p> <p>The Administration responded that the fact that a person was registered in a traditional FC would not affect his eligibility to be registered in another FC, as he could apply to have his name removed from the electoral register of the FC concerned should he wish to join another FC.</p>	
024542 - 024936	Ms Audrey EU Chairman Administration Mr LAU Kong-wah	Ms Audrey EU requested the Administration to provide information on the timeline of actions to be taken by the Administration to inform persons registered or eligible to be registered as electors of traditional FCs of their option to choose to register in a traditional FC and the new DCFC and the relevant registration arrangements.	Admin (para 4 of minutes)
024937 - 030734	Mr LAU Kong-wah SALA2 Chairman Administration Mr Paul TSE Mr IP Kwok-him Dr Margaret NG	Mr LAU Kong-wah, Mr Paul TSE and Mr IP Kwok-him did not consider that there was any problem with the drafting of the proposed new sections 20ZC and 25(2A). Mr LAU and Mr IP were of the view that as the new DCFC was a FC, persons registered or eligible to be registered as electors in the traditional FCs should also be given an option to choose to register in the new DCFC in line with the arrangements for other FCs.	
030735 - 030746	Chairman	Date of next meeting	