



立法會秘書處 法律事務部  
LEGISLATIVE COUNCIL SECRETARIAT  
LEGAL SERVICE DIVISION

來函檔號 YOUR REF : CMAB C1/30/5/4  
本函檔號 OUR REF : LS/B/13/10-11  
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**By Post & Fax**

17 June 2011

Mr LAM Sui Lung, Stephen, GBS, JP  
Secretary for Constitutional and Mainland Affairs  
Constitutional and Mainland Affairs Bureau  
3<sup>rd</sup> floor  
Main and East Wing  
Central Government Offices  
HONG KONG  
(Fax No.: 2840 1528)

Dear Mr LAM,

**Electoral Legislation (Miscellaneous Amendments) Bill 2011**

I refer to the draft Committee Stage amendments relating to relief for minor errors annexed to LC Paper No. CB(2)2052/10-11(01) and wish to seek the following clarification -

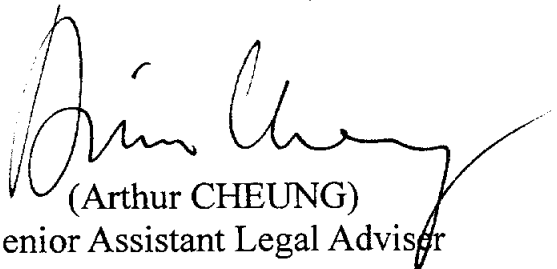
- (a) proposed section 37A(5) restricts the right to lodge a copy of an election return under subsection (4) to a candidate whose aggregate amount of election expenses does not exceed the prescribed maximum amount of election expenses, which apparently refers to the aggregate amount after the revision. If so, what is the policy reason for not according the same right of correction to a candidate whose aggregate amount of election expenses exceeds the prescribed amount after the correction? If a candidate subsequently discovers that he has omitted some expenses from his return which would cause his aggregate election expenses to exceed the prescribed amount, he may also wish to make a correction despite section 24 of the principal ordinance, which offers certain defences, so as to mitigate his liability under section 20;

- (b) proposed section 37A(6) requires a copy of an election return to be lodged within 30 days after the candidate receives a relevant notice from the appropriate authority, otherwise it would be of no effect. Does it mean that a candidate is not able to lodge a copy of an election return under subsection (4) on his own accord?
- (c) proposed section 37A(9) refers to a group of candidates. This does not seem to tally with section 37, which does not contemplate a group of candidates; and
- (d) should proposed section 37A(12) include an omission of any expenses or amounts as an error or false statement?

I also refer to subparagraph (c) of your response to myself dated 8 June 2011. Please consider in the light of your clarification whether the proposed section 43(4D) should in referring to subsections (4A), (4B) and (4C) disjunctively, should also refer to subsections (1) and (2) disjunctively since for example, subsections (4A) and (4B) only relate to the purpose of subsection (1), when Committee Stage amendments are being prepared to reflect the policy adjustments set out in paragraph 6 of LC Paper No. CB(2)2073/10-11(01).

Lastly, I would be grateful to know if all consequential amendments have been spotted and proposed. In particular, since a new section 70B is proposed, would it be necessary to refer to both sections 67 and 70B where now only section 67 is referred to when a Court determination is mentioned, so as to also refer to a Court of Final Appeal determination (see section 36(1)(d) etc.).

Yours sincerely,

  
(Arthur CHEUNG)  
Senior Assistant Legal Adviser

c.c. Clerk to Bills Committee